

FILED

2011 AUG -4 PM 2:26

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

BY

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Manouch Moshayedi, Mehrdad Moshayedi,
11 Raymond D. Cook, and Rajat Bahri

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 SOUTHERN DIVISION

SACV11 - 1171 DOC (RNBx)

16 WEST VIRGINIA LABORERS'
TRUST FUND, Individually and on
17 Behalf of All Others Similarly Situated,

18 Plaintiff,

19 v.

20 STEC, INC., MANOUCH
MOSHAYEDI, MEHRDAD
21 MOSHAYEDI, RAYMOND D.
COOK, RAJAT BAHRI, BARCLAYS
22 CAPITAL INC., DEUTSCHE BANK
SECURITIES, INC., J.P. MORGAN
23 SECURITIES, INC., and
OPPENHEIMER & CO., INC.,

24 Defendants.
25
26
27
28

CASE NO.:

NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441(b)

(FEDERAL QUESTION)

Removed from: Superior Court of
California, County of Orange, Case No.
30-2011-00489022-CU-SL-CXC

[Filed Concurrently with Civil Cover
Sheet, Certification and Notice of
Interested Parties, Notice of Related
Cases, and Notice of Association of
Counsel]

1 **TO THE CLERK OF THIS COURT, PLAINTIFF, AND ITS COUNSEL:**

2 **PLEASE TAKE NOTICE** that pursuant to 28 U.S.C. §§ 1331, 1441, and
 3 1446, defendants STEC, Inc., Manouch Moshayedi, Mehrdad Moshayedi,
 4 Raymond D. Cook, and Rajat Bahri (the "STEC Defendants") hereby remove the
 5 above-captioned civil action, and all claims and causes of action therein, from the
 6 Superior Court of California, County of Orange, to the United States District Court
 7 for the Central District of California, Southern Division.¹ The STEC Defendants
 8 appear for purposes of removal only, reserve all defenses and rights available, and
 9 state as follows:

10 **BACKGROUND**

11 1. Plaintiff West Virginia Laborers' Trust Fund, Individually and
 12 on Behalf of All Others similarly Situated, filed the above-captioned purported
 13 class action on July 1, 2011 in the Superior Court of California, County of Orange,
 14 case number 30-2011-00489022-CU-SL-CXC. The STEC Defendants received the
 15 complaint and summons on July 8, 2011 and signed the acknowledgement of
 16 receipt on July 21, 2011. A true and correct copy of the summons and the
 17 complaint is attached hereto as Exhibit 1. A true and correct copy of all additional
 18 pleadings is attached hereto as Exhibit 2.

19 **BASIS FOR REMOVAL**

20 2. This action is within the original jurisdiction of this Court under
 21 28 U.S.C. § 1331 because it includes claims arising under the laws of the United
 22 States. Specifically, Plaintiff asserts claims against STEC, Inc. ("STEC") arising
 23 under Sections 11 and 12(a)(2) of the Securities Act of 1933 (the "Securities Act").
 24 *See* Compl. ¶¶ 55-162; 169-79. Plaintiff also asserts claims against defendants

25
 26 ¹ Filed separately is a Notice of Related Cases which provides notice that this
 27 action is related to two cases currently pending before Judge Selna: (1) *In re*
 28 *STEC, Inc. Sec. Litig.*, 8:09-cv-01304-JVS-MLG; and (2) *In re STEC, Inc.*
Derivative Litig., 2:10-cv-00667-JVS-MLG.

1 Manouch Moshayedi, Mehrdad Moshayedi, Raymond D. Cook, Rajat Bahri,
 2 Barclays Capital Inc., Deutsche Bank Securities, Inc., J.P. Morgan Securities, Inc.,
 3 and Oppenheimer & Co., Inc. arising under Sections 11, 12(a)(2) and/or 15 of the
 4 Securities Act. *See id.* ¶¶ 155-93.

5 3. Because this is a civil action over which this Court has original
 6 jurisdiction under 28 U.S.C. § 1331, it is removable under 28 U.S.C. § 1441 and
 7 the Securities Litigation Uniform Standards Act of 1998 (hereinafter, “SLUSA”),
 8 15 U.S.C. § 77p(c). Under 28 U.S.C. § 1441(a), “[e]xcept as otherwise expressly
 9 provided by Act of Congress, any civil action brought in a State court of which the
 10 district courts of the United States have original jurisdiction, may be removed . . .
 11 to the district court of the United States embracing the place where such action is
 12 pending.” Further, Section 1441(b) provides, in relevant part, that “[a]ny civil
 13 action of which the district courts have original jurisdiction founded on a claim or
 14 right arising under the Constitution, treaties or laws of the United States shall be
 15 removable without regard to the citizenship or residence of the parties.”

16 4. SLUSA amended Section 22(a) of the Securities Act, creating
 17 an exemption to its non-removal provision, and expressly allowing the removal of
 18 certain “covered class actions” arising under the Securities Act. 15 U.S.C. §
 19 77v(a). Section 16(c) of the Securities Act provides that “[a]ny covered class
 20 action brought in any State court involving a covered security, as set forth in
 21 subsection (b), shall be removable to the Federal district court for the district in
 22 which the action is pending . . .” 15 U.S.C. § 77p(c) (emphasis added).

23 5. “Covered class action” includes:
 24 “[A]ny single lawsuit in which . . . one or more named parties
 25 seeks to recover damages on a representative basis on behalf of
 26 themselves and other unnamed parties similarly situated, and
 27 questions of law or fact common to those persons or members
 28

1 of the prospective class predominate over any questions
 2 affecting only individual persons or members.”

3 15 U.S.C. § 77p(f)(2)(A)(i)(II). A “covered security” is defined to include shares
 4 listed for trading on the NASDAQ Stock Market. 15 U.S.C. § 77p(f)(3); 15 U.S.C.
 5 § 77r(b)(1).

6 6. This action is a “covered class action . . . involving a covered
 7 security.” Plaintiff is a named party seeking to recover damages on a representative
 8 basis on behalf of itself and others similarly situated, and the complaint alleges that
 9 common questions of law or fact predominate over individual questions. *See*
 10 Compl. ¶¶ 143-48. Further, the securities at issue, the common shares of STEC, are
 11 “covered securit[ies]” within the meaning of SLUSA because they are listed, and
 12 were listed during the relevant period, on the NASDAQ Stock Market. *See id.* ¶¶
 13 14, 31, 144.

14 7. Accordingly, Plaintiff’s claims are removable to the United
 15 States District Court for the Central District of California under 15 U.S.C. §§
 16 77p(c), 77v, and 28 U.S.C. § 1441. *See Purowitz v. DreamWorks Animation SKG,*
 17 *Inc.*, 2005 U.S. Dist. LEXIS 46911 (C.D. Cal. Nov. 15, 2005); *Brody v.*
 18 *Homestore, Inc.*, 240 F. Supp. 2d 1122 (C.D. Cal. 2003).

19 8. STEC will promptly serve a copy of this Notice on counsel for
 20 Plaintiff and will file a copy of this Notice with the Clerk of the Superior Court of
 21 California, County of Orange, pursuant to 28 U.S.C. § 1446(d).

22 **TIMELINESS OF REMOVAL**

23 9. This notice is being filed within 30 days of service of the
 24 summons and complaint on the STEC Defendants, and thus, is timely filed under
 25 28 U.S.C. § 1446(b).

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INTRADISTRICT ASSIGNMENT

10. Assignment of the action to the United States District Court for the Central District of California, Southern Division is appropriate because this action is being removed from Superior Court of California, County of Orange.

CONSENT TO REMOVAL

11. Undersigned counsel has been authorized to state that the remaining defendants concur in the removal of this action to this Court, subject to and without waiving all defenses and rights available to them.

WHEREFORE, the STEC Defendants, pursuant to 28 U.S.C. § 1441, remove this action in its entirety from the Superior Court of California, County of Orange, to this Court.

Dated: August 4, 2011

Respectfully Submitted,

LATHAM & WATKINS LLP


By 
Christopher W. Johnstone
Attorneys for Defendants STEC,
Inc., Manouch Moshayedi, Mark
Moshayedi, Raymond D. Cook, and
Rajat Bahri

EXHIBIT 1

SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: STEC, INC., MANOUCH MOSHAYEDI,
(AVISO AL DEMANDADO): MEHRDAD MOSHAYEDI, RAYMOND D. COOK,
RAJAT BAHRI, BARCLAY'S CAPITAL INC., DEUTSCHE BANK SECURITIES,
INC., J.P. MORGAN SECURITIES, INC., and OPPENHEIMER & CO., INC.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

WEST VIRGINIA LABORERS' TRUST FUND, Individually and on
Behalf of All Others Similarly Situated

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California,
County of Orange

07/07/2011 at 11:47:00 AM

Clerk of the Superior Court
By James M Haines, Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): SUPERIOR COURT OF CALIFORNIA

County of Orange - Civil Complex Center

751 W. Santa Ana Blvd., Bldg. 36, Santa Ana, CA 92701-4512

Judge Ronald L. Bauer

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Blair A. Nicholas, Esq., 12481 High Bluff Drive, Suite 300, San Diego, CA 92130, Tel: (858) 793-0070

CASE NUMBER:
(Número del Caso):

30-2011-00489022-CU-SL-CXC

DATE: 07/07/2011
(Fecha)

ALAN CARLSON, Clerk of the Court

Clerk, by
(Secretario)

James M Haines

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010),
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- | | |
|--|---|
| under: <input type="checkbox"/> CCP 416.10 (corporation) | <input type="checkbox"/> CCP 416.60 (minor) |
| <input type="checkbox"/> CCP 416.20 (defunct corporation) | <input type="checkbox"/> CCP 416.70 (conservatee) |
| <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (authorized person) |
| <input type="checkbox"/> other (specify): | |

4. ☐ by personal delivery on (date):

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (SBN 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO.: (858) 793-0323 ATTORNEY FOR (Name): Plaintiff West Virginia Laborers' Trust Fund		FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of Orange 07/01/2011 at 12:18:32 PM Clerk of the Superior Court By Rachelle Vavra, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 700 Civic Center Drive West MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Central Justice Center		
CASE NAME: West Virginia Laborers' Trust Fund v. STEC, Inc., et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER: 30-2011-00489022-CU-SL-CXC JUDGE: JUDGE RONALD L. BAUER DEPT: DEPT. CX103

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (28) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input checked="" type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	--	--

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input checked="" type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): Violations of Sections 11, 12(A)(2) and 15 of the Securities Act of 1933

5. This case ☒ is ☐ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: July 1, 2011
 Blair A. Nicholas, Esq.

(TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

Form Adopted for Mandatory Use
 Judicial Council of California
 CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740;
 Cal. Standards of Judicial Administration, std. 3.10
 www.courtinfo.ca.gov

Exhibit 1

6

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES**Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller
Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

ELECTRONICALLY FILED
Superior Court of California,
County of Orange

07/01/2011 at 12:18:32 PM
Clerk of the Superior Court
By Rachelle Wavra, Deputy Clerk

1 BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP

2 Blair A. Nicholas (Bar No. 178428)

3 blairn@blbglaw.com

4 Niki L. Mendoza (Bar No. 214646)

5 nikim@blbglaw.com

6 Takeo A. Kellar (Bar No. 234470)

7 takeok@blbglaw.com

8 12481 High Bluff Drive, Suite 300

9 San Diego, CA 92130

10 Tel: (858) 793-0070

11 Fax: (858) 793-0323

12 *Counsel for Plaintiff West Virginia Laborers'*
13 *Trust Fund and the Class*

14 SUPERIOR COURT OF CALIFORNIA

15 IN AND FOR THE COUNTY OF ORANGE

16 WEST VIRGINIA LABORERS' TRUST
17 FUND, Individually and on Behalf of All
18 Others Similarly Situated,

19 Plaintiff,

20 v.

21 STEC, INC., MANOUCH
22 MOSHAYEDI, MEHRDAD
23 MOSHAYEDI, RAYMOND D. COOK,
24 RAJAT BAHRI, BARCLAYS CAPITAL
25 INC., DEUTSCHE BANK
26 SECURITIES, INC., J.P. MORGAN
27 SECURITIES, INC., and
28 OPPENHEIMER & CO., INC.,

Defendants.

Case No. 30-2011-00489022-CU-SL-CXC

CLASS ACTION

**COMPLAINT FOR VIOLATIONS OF THE
FEDERAL SECURITIES LAWS**

DEMAND FOR JURY TRIAL

JUDGE RONALD L. BAUER
DEPT. CX103

COMPLAINT

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1 This Complaint is brought pursuant to the Securities Act of 1933 (the "Securities Act")
 2 by Plaintiff West Virginia Laborers' Trust Fund, individually, and as a class action on behalf of
 3 all persons or entities (the "Class") who purchased or otherwise acquired common stock of
 4 STEC, Inc. ("STEC" or the "Company") in or traceable to the Company's Secondary Offering
 5 on or about August 11, 2009 (the "Offering"), and who were damaged thereby. The action
 6 seeks to recover damages caused by Defendants' violations of federal securities laws and to
 7 pursue remedies under the Securities Act.

8 The allegations contained herein are based upon information and belief with information
 9 obtained through the investigation made by and through Plaintiff's counsel. Plaintiff's counsel's
 10 investigation has included, among other things: (i) review and analyses of STEC's filings with
 11 the United States Securities and Exchange Commission ("SEC"), press releases and other public
 12 statements; and (ii) review and analyses of news, media, and analyst research. Plaintiff believes
 13 that substantial additional evidentiary support for the allegations herein exist and will continue
 14 to be revealed after Plaintiff has a reasonable opportunity for discovery.

15 As this Complaint is based exclusively in theories of innocent and/or negligent conduct to
 16 which the strict liability provisions of the Securities Act apply, it does not allege or intend to
 17 allege any claims or assertions of fraud.

18 **I. NATURE AND SUMMARY OF THE ACTION**

19 1. STEC purports to be a leading global provider of memory and storage solutions
 20 tailored to meet the high-performance, high-reliability needs of original equipment
 21 manufacturing ("OEM") customers like Sun Microsystems, EMC Corporation ("EMC"), IBM,
 22 and Dell. The Company claims to manufacture the industry's "most comprehensive line" of
 23 solid state drives ("SSDs") in the storage industry, including the Company's flagship product, the
 24 ZeusIOPS ("Zeus" or "ZeusIOPS").

25 2. The claims in this case stem from false and misleading statements or omissions in
 26 the Company's Registration Statement ("Registration Statement"), and Prospectus and/or
 27 Amended or Supplemental Prospectus (collectively, "Prospectus"), issued in connection with the
 28 Offering which allowed two brothers, as founders and key officers of the Company, Manouch

1 and Mark Moshayedi, to sell half of their personally held stock in the Company for a total of
 2 \$267.8 million. As detailed below, the Registration Statement and Prospectus contained
 3 materially false and misleading statements and omitted material information in violation of
 4 Sections 11, 12(a)(2) and 15 of the Securities Act, 15 U.S.C. §§ 77k, 77l(a)(2) and 77o.

5 3. This action is brought against STEC; its top executive officers, the Company's
 6 Chairman and Chief Executive Officer ("CEO"), Manouch Moshayedi; its President, Chief
 7 Operating Officer ("COO"), and Chief Technology Officer ("CTO"), Mehrad "Mark" Moshayedi
 8 ("Mark Moshayedi"); its Chief Financial Officer ("CFO"), Raymond D. Cook (collectively, the
 9 "Officer Defendants"); its Chair of the Board's Audit Committee and Board Member, Rajat
 10 Bahri, each who signed the Registration Statement; and the Underwriter Defendants (defined
 11 below), for violations of the Securities Act.

12 4. On August 3, 2010, STEC announced the intention to conduct the Offering of at
 13 least 7.5 million shares of STEC common stock, in addition to 1.125 million more shares that
 14 would be made available to the Underwriter Defendants to cover over-allotments. Also on
 15 August 3, 2010, in connection with the Offering, STEC filed with the SEC the Registration
 16 Statement, pursuant to Form S-3ASR, and the Prospectus, pursuant to Form 424B3. Thereafter,
 17 on August 6, 2009, Defendants announced that, pursuant to an Amended Prospectus, they had
 18 increased the size of the Offering to nine million shares, in addition to 1.35 million over-
 19 subscription shares, and had set the offering price at \$31.00 per share.¹

20 5. The Registration Statement and Prospectus contained false and misleading
 21 misstatements and omissions, which allowed the Company's two most senior executives to sell
 22 more than nine million shares of stock, approximately 50% of their holdings, for proceeds *in*
 23 *excess of \$267 million*. For example, as detailed below, the Registration Statement and
 24 Prospectus were false and misleading in that they: (i) falsely represented that STEC would
 25 experience continued growth in sales of ZeusIOPS to EMC similar to a massive contract
 26

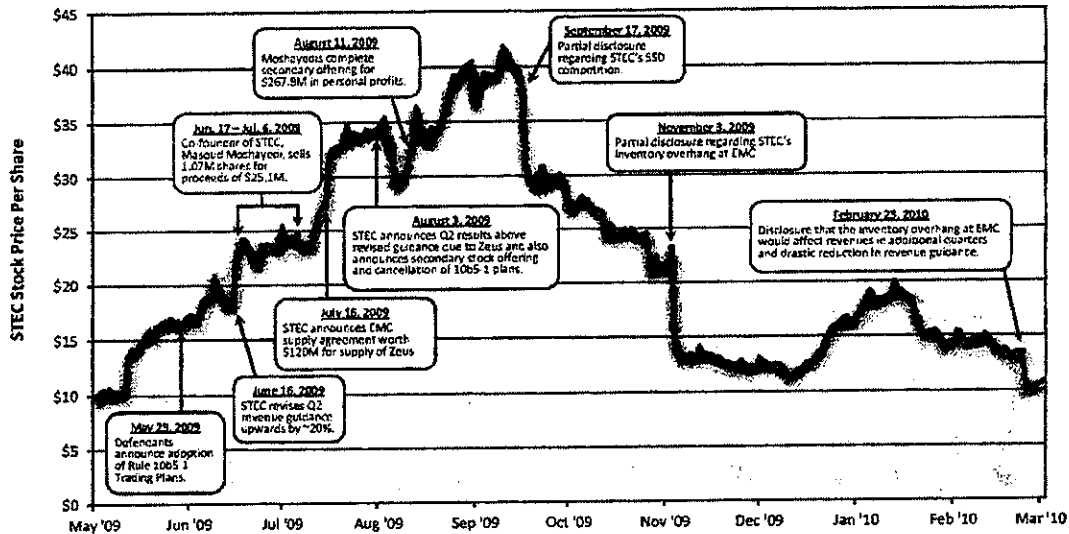
27 ¹ The amended Prospectus, filed on August 7, 2009, is identical to the original Prospectus in all
 28 other relevant respects.

1 announced just prior to announcing the Offering, while omitting the material fact that the prior
2 contract was merely a “one-off type of a deal” which would not be repeated; (ii) falsely
3 represented that the Company would experience continued growth in its sales of ZeusIOPS to
4 other OEM customers, while omitting, among other material information, that IBM would not
5 begin purchasing for volume production during the second half of 2009 and was not marketing
6 ZeusIOPS as a standard feature in its systems; (iii) falsely represented that there was and would
7 be no competition for STEC’s SSDs in the foreseeable future, while omitting the material fact
8 that new competition would be entering the market at the end of 2009 and beginning of 2010;
9 and (iv) incorporated by reference the Company’s second quarter 2009 Form 10-Q, filed the
10 same day as the Registration Statement, which falsely reported artificially inflated revenue in
11 violation of Generally Accepted Accounting Principles (“GAAP”).

12 6. Defendants Manouch and Mark Moshayedi completed their sale at \$31 per share
13 – nearly *double* STEC’s stock price just two months earlier. Prior to this Offering, they had
14 never previously sold such massive amounts of their STEC stock. That was the largest insider
15 selling in the history of the Company.

16 7. As would be revealed through multiple partial disclosures beginning on
17 September 17, 2009, STEC’s purported increased revenue was derived from *a single customer*,
18 in a *one-time deal* that – contrary to Defendants’ misrepresentations – was not indicative of
19 continuing demand for STEC’s products. Following each of these announcements, STEC’s stock
20 price plummeted.

21 8. As illustrated below, while STEC’s stock price rose in just two months, the top
22 executive officers unloaded their personally held shares near the all-time high, just one month
23 before the truth began to emerge:
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II. JURISDICTION AND VENUE

9. The claims asserted herein arise under and pursuant to Sections 11, 12(a)(2) and 15 of the Securities Act, 15 U.S.C. §§ 77k, 77l(a)(2) and 77o. This Court has jurisdiction over the subject matter of this action pursuant to Section 22 of the Securities Act, 15 U.S.C. § 77v, which explicitly states, “[e]xcept as provided in Section 16(c) [15 U.S.C. § 77p(c)], no case arising under this Act and brought in any State court of competent jurisdiction shall be removed to any court of the United States.” Section 16(c) of the Securities Act refers to “covered class actions.” This action asserts claims under the Securities Act and is not a “covered class action” within the meaning of Section 16(c), and therefore, pursuant to Section 22(a) of the Securities Act, this action is not removable.

10. Each Defendant has sufficient contacts with California, or otherwise purposefully avails itself of benefits from California or has property in California so as to render the exercise of jurisdiction over each by the California courts consistent with traditional notions of fair play and substantial justice.

11. The amount in controversy exceeds the jurisdictional minimum of this Court, and the total amount of damages sought exceeds \$25,000.

12. Venue is proper in this Court pursuant to Section 22 of the Securities Act, 15 U.S.C. § 77v. Defendant STEC maintains its principal place of business within this County, the

individual defendants conduct business in this County, and many of the acts giving rise to the violations alleged herein, including, presumably, the preparation and dissemination of the Registration Statement and Prospectus, occurred in this County.

III. THE PARTIES

A. Plaintiff

13. Plaintiff West Virginia Laborers' Pension Trust Fund ("West Virginia") is a Taft-Hartley pension fund. West Virginia administers pension and health care benefits to approximately 4,000 laborer participants and their respective families. West Virginia purchased STEC common stock in the Offering pursuant to the Registration Statement and Prospectus and suffered substantial damages as a result of the false statements contained therein.

B. Defendants

1. The Issuer Defendant

14. Defendant STEC is a California corporation with its principal place of business located at 3001 Daimler Street, Santa Ana, California. During the time of the Offering and all relevant time alleged herein, the Company traded in an efficient market on the NASDAQ under the ticker symbol "STEC." As of February 23, 2010, the Company had nearly 50 million shares issued and outstanding.

15. Defendants Manouch and Mark Moshayedi, and their brother, Masoud "Mike" Moshayedi ("Mike Moshayedi"), founded STEC, then named Simple Technology, Inc., in 1990. The Company rapidly grew through acquisitions and expansions both domestically and abroad. In September 2000, the Company went public. In 2007, STEC divested its Consumer Division, and introduced its high-end, flagship product, the ZeusIOPS.

2. The Officer Defendants

16. Defendant Manouch Moshayedi, co-founder of STEC, is, and at all relevant times was, Chairman of the Board and CEO of STEC. Defendant Manouch Moshayedi signed the documents in connection with the Offering, including the Company's August 2009 Registration Statement on Form S-3. Manouch Moshayedi sold 4.1 million shares of his personally held STEC common stock for \$133,920,000 in the Offering.

17. Defendant Mehrdad "Mark" Moshayedi, is, and at all relevant times was, President, COO, CTO, Secretary and a Director of STEC. Defendant Mark Moshayedi signed the Company's August 2009 Registration Statement. Defendant Mark Moshayedi sold 4.9 million shares of his personally held STEC stock for \$133,920,000 in the Offering.

18. Defendant Raymond D. Cook ("Cook") is, and at all relevant times was, the CFO and Principal Accounting Officer of the Company. Defendant Cook signed the Company's August 2009 Registration Statement.

19. As officers and controlling persons of a publicly held company whose common stock was, and is, registered with the SEC and traded on NASDAQ, Defendants Manouch Moshayedi, Mark Moshayedi, and Cook (collectively, the "Officer Defendants") each possessed the power and authority to control the contents of the Registration Statement and Prospectus, and had a duty to disseminate accurate information.

3. The Director Defendant

20. Rajat Bahri ("Bahri") was, at all relevant times, a member of STEC's Board of Directors, and Chair of the Board's Audit Committee. Bahri signed the Company's August 2009 Registration Statement.

21. STEC's Board of Directors (the "Board") has determined that Bahri is an "audit committee financial expert," as that term is defined in Item 407(d)(5) of Regulation S-K, which means that the Company's Board determined that Bahri has the following attributes:

- (a) An understanding of generally accepted accounting principles and financial statements;
- (b) The ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;
- (c) Experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the registrant's

financial statements, or experience actively supervising one or more persons engaged in such activities;

- (d) An understanding of internal control over financial reporting; and
- (e) An understanding of audit committee functions.

4. The Underwriter Defendants

22. Defendant Barclays Capital Inc. ("Barclays Capital") is an investment bank that acted as an underwriter with respect to STEC common stock sold in the Offering. Barclays Capital's headquarters are located at 745 Seventh Avenue, New York, New York 10019.

23. Defendant Deutsche Bank Securities, Inc. ("Deutsche Bank Securities") is an investment bank that acted as an underwriter with respect to STEC common stock sold in the Offering. Deutsche Bank Securities' headquarters are located at 60 Wall Street, New York, New York 10005.

24. Defendant J.P. Morgan Securities, Inc. ("J.P. Morgan Securities") is an investment bank that acted as an underwriter with respect to STEC common stock sold in the Offering. J.P. Morgan Securities' headquarters are located at 277 Park Avenue, New York, New York 10172.

25. Defendant Oppenheimer & Co., Inc. ("Oppenheimer") is an investment bank that acted as an underwriter with respect to STEC common stock sold in the Offering. Oppenheimer's headquarters are located at 125 Broad Street, New York, New York 10004.

26. The Defendants described in paragraphs 22-25 are referred to collectively herein as the "Underwriter Defendants." The Underwriter Defendants acted as underwriters of the Offering and distributed at least nine million shares of STEC common stock to investors. The distribution of shares to the underwriters (excluding the 1,350,000 shares over-subscription allotment) was:

<u>Name</u>	<u>Number of Shares</u>
J.P. Morgan Securities	2,925,000
Deutsche Bank Securities	2,925,000
Barclays Capital	1,800,000
Oppenheimer	1,350,000

1 27. In connection with the Offering, the Underwriter Defendants were granted an
2 option for a period of thirty days to purchase up to an additional 1,350,000 shares to cover
3 overallotments.

4 28. The Underwriter Defendants received an underwriting discount of at least \$11.16
5 million, indirectly paid by Plaintiff and other Class Members who purchased STEC common
6 stock in the Offering.

7 29. The Underwriter Defendants failed to conduct an adequate due diligence
8 investigation, which was a substantial contributing factor leading to the harm complained of
9 herein.

10 **IV. BACKGROUND**

11 30. STEC, then named Simple Technology, Inc. ("SimpleTech"), was founded in 1990
12 by Manouch Moshayedi and his brother, Mike Moshayedi. At that time, they introduced a line of
13 memory products for PCs, notebooks, servers, printers and devices.

14 31. Throughout the 1990s, the Company grew rapidly, expanding its manufacturing
15 facilities, acquiring a Flash controller design team from Cirrus Logic, establishing an OEM Sales
16 Division, acquiring Kelly Microsystems and Silicon Tech, and opening European offices. In
17 1995, the Company was recognized on the Inc. 500 List as one of the fifty fastest-growing
18 businesses in the United States. The Company completed its initial public offering in September
19 2000, trading on the NASDAQ under the ticker symbol STEC.

20 32. As the Company continued to expand through acquisitions, in 2005, it introduced
21 its high-end Zeus SSD product. Two years later, STEC introduced its flagship product, the
22 ZeusIOPS SSD, with Enterprise grade storage systems.

23 33. On January 14, 2008, STEC announced that, after a year of "collaborative effort"
24 between STEC and EMC Corporation ("EMC," described by *The Wall Street Journal* as "the
25 market-share leader in big computer storage systems"), EMC had "selected Zeus-IOPS" for
26 "deployment" in certain "high-end networked storage systems." STEC stated "[t]his union
27 signifies the first adoption of our Zeus-IOPS SSDs in the enterprise storage and enterprise
28 computing markets."

1 34. Two months later, on March 5, 2008, during the year-end earnings conference
2 call for 2007, a STEC spokesperson stated that “[w]e expect production levels to ramp for
3 [EMC] in future quarters.”

4 35. Another two quarters later, in its 2008 third quarter 10-Q, STEC reported that
5 ZeusIOPS had been “qualified” for use on the platforms of “one of the largest Enterprise
6 Storage and Server OEMs.” During STEC’s 2008 third quarter earnings conference call
7 Manouch Moshayedi stated that sales of ZeusIOPS during the first three quarters of 2008 had
8 already grown substantially compared to sales during 2007, “[a]nd this 2008 was just a
9 sampling of what we can do in that type of product [because] [w]e haven’t yet gone into major
10 production of this product line. Once we do, I think the numbers will be significantly higher
11 than what we are doing today based on just eval[uations] and samples.”

12 36. Another two quarters later, during STEC’s 2009 first quarter conference call,
13 Manouch Moshayedi stated that ZeusIOPS was now qualified at all five of the largest enterprise
14 storage OEMs, and indicated that EMC was now in “full production” of systems incorporating
15 ZeusIOPS.

16 37. One quarter after that, during STEC’s 2009 second quarter earnings conference
17 call, Manouch Moshayedi described EMC as being in “full ramping production,” and added that
18 once the other four OEMs – described by Manouch as being in “pre production” – “start kicking
19 in you will see huge ramps in sales of ZeusIOPS going forward.”

20 38. According to STEC, although the volume of a given OEM’s purchases of
21 ZeusIOPS would increase by quantum leaps as the customer passed from pre qualification, to
22 pre production, to volume production, an OEM’s purchases could increase – although more
23 gradually – at other times as well, because, as stated in STEC’s 2008 Form 10-K, “the SSD
24 market will continue to expand over the next few years, aided by the continuation of the decline
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1 in Flash component pricing,” and because the continuous development of new applications for
2 SSDs would increase the variety of possible OEM systems and interested end users.²

3 39. Thus, as early as during a May 14, 2007, earnings conference call, Manouch
4 noted that one ZeusIOPS customer that was still in the qualification stage “wants a much larger
5 volume for qualification across their platforms,” and that “customers like that will pick up
6 significantly.”

7 40. Thus too, according to STEC, the achievement of volume production by a
8 specific OEM did not mean the end of the growth in the volume of its purchases from STEC,
9 because the volume of its requirements was likely to *continue* growing as ZeusIOPS was
10 integrated into more and more of the OEM’s systems for sale to an increasing variety of end
11 users – which is why, on August 3, 2009, during the second quarter earnings conference call,
12 Manouch Moshayedi interchangeably used the terms “full production” and “full ramping
13 production.”

14 41. In sum, STEC made clear to investors that in the ordinary course of its ZeusIOPS
15 business, total sales of ZeusIOPS were likely to grow over time, and, not only were sales of
16 ZeusIOPS to any given customer likely to grow over time, but also, they were likely to exhibit
17 great spurts of growth as the customer transitioned from one phase of purchasing to the next.

18 42. As reported by STEC during its quarterly earnings conference calls, from the
19 time of STEC’s first collaborative efforts with EMC during 2007 to create EMC systems
20 incorporating ZeusIOPS, through the second quarter of 2009 when EMC achieved “full ramping
21 production” of such systems, STEC’s revenues from ZeusIOPS sales increased from quarter to
22

23 ² During the May 14, 2007, earnings conference call, Manouch Moshayedi noted that
24 “everybody in every industry that we are seeing, small or large products that they build, they are
25 now trying to integrate Flash into it.” As explained by *The Wall Street Journal* on January 14,
26 2008, EMC originally expected that its systems incorporating ZeusIOPS would only be
27 purchased by financial institutions needing to “handle hundreds of transactions a second,” and,
28 during STEC’s 2008 first quarter conference call, Manouch Moshayedi stated that systems
incorporating ZeusIOPS had not yet been sent by the OEMs “to anybody else besides the
financial institutions.” However, Manouch immediately added, “I think as we go forward during
the year[,] in the second half of the year, we will see more and more applications coming up.”

1 quarter, and year to year by dramatic amounts. These reported results appeared to confirm the
 2 scenario depicted by STEC of steadily increasing total ZeusIOPS sales, driven by the
 3 transitioning of purchasers – up to this point, especially EMC – from pre qualification, to pre
 4 production, to volume production of systems incorporating ZeusIOPS.

5 43. For the year 2007 – the year when STEC reportedly began its collaboration with
 6 EMC – STEC reported ZeusIOPS revenues of \$11 million, with just the last quarter of 2007
 7 accounting for \$7 million of that total.

8 44. For the next year – 2008 – STEC reported ZeusIOPS revenues of \$52.7 million
 9 – making for a year-over-year increase of almost 400%. During the year 2008 earnings
 10 conference call, Manouch Moshayedi stated that “[o]ur ZeusIOPS business is growing through
 11 the roof.”

12 45. Also during the year 2008 earnings conference call, Manouch predicted that
 13 STEC’s ZeusIOPS revenues for just the *first half* of 2009 would match STEC’s ZeusIOPS
 14 revenues for the entire year 2008. An analyst for Capstone Investments commented that
 15 “STEC’s guidance [for the first half of 2009] should be viewed as nothing short of spectacular.”

16 46. Halfway through 2009, STEC reported ZeusIOPS revenues of \$57.7 million for
 17 just the second quarter alone – exceeding in that one quarter the total ZeusIOPS revenues
 18 reported for the entire previous year – and reported even larger ZeusIOPS revenues – \$83.4
 19 million – for the first *half* of 2009.

20 47. These remarkable reported increases in ZeusIOPS revenues were driven by
 21 remarkable reported increases in ZeusIOPS sales to EMC. Thus, during the first quarter of
 22 2009, reported ZeusIOPS sales to EMC totaled \$7.55 million; while during the second quarter
 23 of 2009, reported ZeusIOPS sales to EMC totaled \$33.6 million – an increase of more than
 24 300%.³

25
 26 ³ The amounts of EMC’s ZeusIOPS purchases here alleged are derived from the following
 27 facts: During the 2009 third quarter earnings conference call, Manouch Moshayedi affirmed an
 28 analyst’s suggestion that EMC had purchased “\$35 million” of ZeusIOPS during the 2009
 second quarter. However, that number can be made more precise: According to STEC’s Form
 424B3 filed on August 3, 2009, EMC’s *total* purchases from STEC during the 2009 second

1 48. On July 16, 2009, early in the third quarter, STEC issued a press release
 2 announcing an agreement with “one of its largest enterprise storage customers” – later revealed
 3 to be EMC – to purchase \$120 million worth of ZeusIOPS SSDs “*the second half of 2009*” (the
 4 “EMC Agreement”).

5 49. The EMC Agreement provided for average quarterly purchases of \$60 million of
 6 ZeusIOPS by EMC during each of the quarters in the second half of 2009. Compared to EMC’s
 7 ZeusIOPS purchases during the 2009 second quarter – approximately \$33.7 million – the EMC
 8 Agreement provided for an increase in average quarterly purchases of 78%. Although this
 9 represented a significant quarterly increase over the already high level of EMC’s purchases
 10 during the 2009 second quarter, it was consistent with the scenario of increasing ZeusIOPS sales
 11 to a customer in full production, and was actually a much smaller percentage increase than
 12 already had happened in the 2009 second quarter, when EMC’s ZeusIOPS purchases had
 13 increased by 300%.

14 50. Significantly, STEC’s July 16 press release communicated that the increased size
 15 of the average quarterly purchases promised by EMC under the EMC Agreement resulted not
 16 from any extraordinary circumstances or terms of the contract, but, rather, from the asserted fact
 17 that “sales of [EMC’s] enterprise storage systems utilizing our ZeusIOPS drives *have grown*
 18 *significantly.*”

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 22 quarter accounted for 38.9% of STEC’s *total* revenues for that quarter. Because STEC’s 2009
 23 second quarter reported revenue was \$86.4 million, the precise amount of EMC’s 2009 second
 24 quarter purchases of ZeusIOPS cannot have been more than \$33.7 million. Manouch’s
 25 statement demonstrates that, during this period, essentially *all* of EMC’s purchases from STEC
 26 were for ZeusIOPS. The amount of EMC’s purchases of ZeusIOPS during the 2009 *first*
 27 quarter can be derived by subtracting the amount of EMC’s purchases from STEC during the
 28 2009 second quarter from the amount of EMC’s purchases from STEC during the entire first
 half of 2009. EMC’s purchases from STEC during the entire first half of 2009, can, in turn, be
 derived from the fact that, according to STEC’s 2009 second quarter 10-Q, EMC accounted for
 27.5% of STEC’s total revenues during the first half of 2009. STEC’s reported revenues during
 the first half of 2009 totaled \$149.9 million.

1 **A. Defendants Manouch And Mark**
2 **Moshayedi Engaged In Massive Insider Selling**

3 51. After falsely fueling an extraordinary rise in the price of STEC stock from \$4 per
4 share in December 2008 to the Offering price of \$31 per share – an increase of over 700% –
5 Defendants Manouch and Mark Moshayedi timely unloaded nine million of their own STEC
6 shares. Specifically, on August 3, 2009, Defendants announced that they would conduct a
7 “secondary offering” of at least 7.5 million shares, all for the personal profit of Defendants
8 Manouch and Mark Moshayedi, with no proceeds going to the Company.

9 52. With this announcement, Defendants also announced that Defendants Manouch
10 and Mark Moshayedi had cancelled their 10b5-1 trading plans which they had adopted just two
11 months earlier. The 10b5-1 trading plan program enables insiders to set predetermined
12 contractual sales of stock in advance regardless of the knowledge of material information.

13 53. Just three days after announcing the Offering, STEC announced on
14 August 6, 2009, the price of the Offering, \$31 per share. STEC also announced that the amount
15 of the Offering would be raised to nine million shares.

16 54. Manouch and Mark Moshayedi sold their nine million shares of STEC stock in
17 the Offering pursuant to the false and misleading Registration Statement and Prospectus on
18 August 11, 2009, *reaping \$267.8 million in a single day*. These sales dramatically reduced the
19 Moshayedis’ insider holdings in STEC. On that day, the Moshayedis went from collectively
20 owning 35.5% of the Company’s stock, down to owning just 17.4%. Defendant Manouch
21 Moshayedi reduced his STEC holdings from 14.8% of the Company to 6.5% and Defendant
22 Mark Moshayedi reduced his STEC holdings from 20.7% to 10.9%. This was by far the
23 historically largest sale of their personally held STEC stock.

24 **B. The Aftermath**

25 55. As detailed below, only after the Moshayedi brothers reaped the benefits of the
26 artificially inflated stock price by selling their stock at unprecedented high prices, did the truth
27 about STEC’s business and operations begin to be revealed. The Company eventually admitted
28 that, contrary to Defendants’ prior representations that the \$120 million EMC deal was indicative

1 of future Zeus revenue growth, it was merely a one-time deal for excess inventory with a single
2 customer, and there were no prospects for a future commitment from EMC.

3 56. EMC, itself, later openly stated to analysts that the order to STEC intentionally
4 included excess inventory, not just for 2009, but also into 2010. For example, EMC explained
5 during its January 26, 2010 earnings conference call that “[w]e have good relationships with all
6 of our suppliers,” and the order with STEC for excess inventory “was designed to protect
7 ourselves going into first quarter against what we knew would be a tight supply environment.”

8 **V. FALSE AND MISLEADING STATEMENTS AND OMISSIONS**
9 **IN THE REGISTRATION STATEMENT AND PROSPECTUS**

10 57. As alleged herein, the Registration Statement and Prospectus contained false and
11 misleading statements, and also omitted material information necessary to make the statements
12 made therein not misleading.

13 58. On August 3, 2009, pursuant to Form S-3ASR, STEC filed a Registration
14 Statement with the SEC for the Offering of the Moshayedis’ personally held shares of STEC.
15 The Registration Statement was signed by Defendants Manouch Moshayedi, Mark Moshayedi,
16 Cook, and Bahri.

17 59. The Company filed a Prospectus for the Offering with the SEC on August 7,
18 2009, which was incorporated into the Registration Statement filed on August 3, 2009. The
19 Prospectus also incorporated by reference the Company’s Form 10-Q for second quarter 2009, in
20 addition to other SEC filings.

21 60. The Prospectus contained, *inter alia*, the following materially false and
22 misleading statement:

23 We expect continued growth in the sales of our Flash-based SSD ZeusIOPS
24 products through 2009 based on the accelerated adoption of our ZeusIOPS SSDs
25 by most of our major enterprise-storage and enterprise-server OEM customers
26 [“Other OEMs”] into their systems. As part of this expected growth, on July 16,
2009 we announced an agreement with one of our largest enterprise-storage
customers for sales of \$120 million of ZeusIOPS SSDs to be delivered in the
second half of 2009.

27 61. The Prospectus Supplement also stated that STEC “expect[s] sales to EMC will
28 represent a significant percentage of [STEC’s] total revenues for the foreseeable future.”

62. The foregoing statements in paragraphs 60 and 61 contained false and/or misleading statements or material omission regarding EMC. Specifically, the EMC Agreement provided for average quarterly purchases of \$60 million of ZeusIOPS by EMC during each of the quarters in the second half of 2009. Compared to EMC's ZeusIOPS purchases during the 2009 second quarter – approximately \$33.7 million – the EMC Agreement provided for an increase in average quarterly purchases of 78%. Although this represented a significant quarterly increase over the already high level of EMC's purchases during the 2009 second quarter, it was consistent with the scenario of increasing ZeusIOPS sales to a customer in full production, and was actually a much smaller percentage increase than already had happened in the 2009 second quarter, when EMC's ZeusIOPS purchases had increased by 300%.

63. The above passage communicated that the increased size of the average quarterly purchases promised by EMC under the EMC Agreement resulted not from any extraordinary circumstances or terms of the contract, but, rather, from the asserted fact that the Company expected "continued growth" in its sales of ZeusIOPS.

64. The market understood STEC's announcement as meaning that the EMC Agreement was a contract signed in the ordinary course of STEC's business, that the size of the contract had been determined solely by a rise in the volume of EMC's recurring demand for ZeusIOPS, and that, going forward, EMC would be purchasing roughly \$60 million of ZeusIOPS every quarter. Indeed, when the EMC Agreement was first announced, an Oppenheimer analyst report stated:

STEC brought out the big gun today (checks suggest EMC), and announced a \$120M ZeusIOPS contract for 2H. Relative to our prior model [for 2H] that included [a] \$60-\$70M contribution from EMC, this news raises our model by \$50M. *Looking ahead to '10, we now expect rev from EMC alone of >\$250M.* (Emphasis added.)

65. In other words, based on STEC's press release, Oppenheimer was now predicting that, in the next year – 2010 – EMC would purchase a bit more than \$60 million of ZeusIOPS in each of the four quarters.

66. Not only did Oppenheimer understand STEC to be saying that the level of EMC's purchases would continue at \$60 million per quarter, but also, Oppenheimer believed that such

1 purchases would be made under subsequent contracts similar to the EMC Agreement. Thus, the
 2 Oppenheimer report stated that “[we] believe/suspect that a similar supply contract with EMC
 3 for all of ’10 must be in the works.”

4 67. As detailed below, three months after the Offering, however, on
 5 November 3, 2009, during STEC’s 2009 third quarter earnings conference call, Manouch
 6 Moshayedi finally admitted that, contrary to the statements in the Registration Statement and
 7 Prospectus, *“when we did sign the [EMC Agreement], we did – this was a one-off type of a*
 8 *deal”* and added that *“I don’t think we’re going to be asking our customer for another*
 9 *commitment.”* Manouch further admitted that *“[EMC] might carry inventory of our*
 10 *ZeusIOPS at the end of 2009 which they will use in 2010.”* (Emphasis added.)

11 68. The statement alleged above in paragraph 60 was also a false statement regarding
 12 sales to the Other OEMS. Specifically, ZeusIOPS purchases by the Other OEMS during the
 13 second half of 2009 dramatically decreased, from \$42.2 million in the first half of 2009, to only
 14 \$14.7 million in the second half of 2009.⁴

15 69. The following table shows, for each quarter of 2009, (1) total sales of ZeusIOPS;
 16 (2) sales of ZeusIOPS to EMC; and (3) sales of ZeusIOPS to the Other OEMS:

	Q1 2009	Q2 2009	Q3 2009	Q4 2009
Total ZeusIOPS Revenues	\$25.7 million	\$57.7 million	\$60.7 million	\$74.0 million
EMC’s ZeusIOPS Purchases	\$7.6 million	\$33.6 million	\$54.0 million	\$66.0 million
The Other OEMs’ ZeusIOPS Purchases	\$18.1 million	\$24.1 million	\$6.7 million	\$8.0 million

22
 23 70. Furthermore, based on information from STEC’s quarterly reports for the 2009
 24 second, third and fourth quarters, the following chart shows both the amount of inventory
 25

26 ⁴ The amount of ZeusIOPS purchases by other OEMs is calculated by subtracting the amount of
 27 ZeusIOPS purchases by EMC from the total amount of STEC’s ZeusIOPS revenues. The total
 28 amount of STEC’s quarterly ZeusIOPS revenues was disclosed during STEC’s quarterly earnings conference calls.

ordered in a given quarter for future use, and the amount of inventory actually used in a given quarter to support the sales made in that quarter. The amount of inventory ordered for future use is the amount of “non-cancellable inventory purchase commitments.” The amount of inventory actually used in a given quarter to support the sales made in that quarter is, essentially, the “cost of revenues” for that particular quarter.

STEC Revenues and Inventory

<u>Reporting Period</u>	<u>2Q2009</u>	<u>3Q2009</u>	<u>4Q2009</u>
Net revenues	\$86,350,000	\$98,293,000	\$106,004,000
Cost of revenues	\$43,177,000	\$49,478,000	\$52,078,000
Non-cancelable inventory purchase commitments	\$103,222,000	\$6,859,000	\$14,177,000
Inventory	\$37,656,000	\$35,555,000	\$42,739,000

71. As shown in the preceding chart, the cost of STEC’s revenues, *i.e.*, the amount of inventory actually used by STEC in order to make its sales – in the third and fourth quarters of 2009 was, in turn, \$49.5 million and \$52 million. Therefore, for the entire second half of 2009, STEC’s cost of revenues was \$101.5 million.

72. As also shown in the preceding chart, the non-cancelable inventory purchase commitments made by STEC in advance of the second half of 2009, during the second quarter of 2009, was \$103 million, almost exactly equal to the cost of the total sales that STEC actually made during the second half of 2009.

73. Moreover, during the 2009 third quarter, STEC’s non-cancelable inventory purchase commitments were a *de minimis* \$6.9 million – which was just enough to bring STEC’s total inventory on hand at the end of 2009 to \$42.7 million, almost exactly equal to the \$40 million goal announced by Manouch Moshayedi during the 2009 first quarter earnings conference call.

74. If, in August, when they filed the false and misleading Registration Statement and Prospectus, the Company had expected ZeusIOPS sales to the Other OEMs to increase during the second half of 2009, it would have ordered inventory sufficient to support such increased sales. Instead, whereas the Registration Statement and Prospectus stated that sales to the Other

1 OEMs would increase, the Company was ordering just enough inventory to provide for sales of
 2 ZeusIOPS to the Other OEMs that would drop by more than \$27 million during the second half
 3 of 2009, as compared to the first half of 2009.

4 75. The Registration Statement and Prospectus also omitted the material fact that
 5 IBM would not begin purchasing for volume production during the second half of 2009, and was
 6 not marketing ZeusIOPS as a standard feature in its systems. Indeed, in STEC's later
 7 November 3, 2009 third quarter earnings conference call, Manouch Moshayedi admitted that
 8 IBM's purchases of ZeusIOPS "dropped off significantly in the third quarter" and that Sun
 9 Microsystem's purchases of ZeuIOPS were below "normal volumes." When asked by an analyst
 10 why IBM's ZeusIOPS "ramp is slow," Manouch Moshayedi disclosed for the first time that IBM
 11 was only "selling SSDs as an option" rather than as a standard part of the IBM system. Manouch
 12 Moshayedi stated: "Selling SSDs as an option versus as part of the product is quite difficult. . . .
 13 If you're going out there and SSD is the first thing that you are offering your customer in terms
 14 of an upgrade for your system, that might change their mind." The Registration Statement and
 15 Prospectus failed to disclose that sales to IBM were actually expected to drop during the 2009
 16 third quarter, and that IBM was not expected to reach full production at any time within the
 17 second half of 2009. The materiality of this omission is further demonstrated by the fact that,
 18 subsequent to STEC's issuance of the Prospectus, on September 9, 2009, a J.P. Morgan analyst
 19 report discussing STEC's ZeusIOPs customers stated that "we look for IBM to ramp to volume
 20 in 2H 2009."

21 76. The Prospectus also included the following false and misleading representations
 22 that it would be difficult for competitors to catch up with STEC:

23 We believe that we are a technology leader in solid-state storage due to our nearly
 24 20 years of focus on advanced memory solutions. Throughout our history, we
 25 have delivered advanced memory and storage solutions to a wide range of
 26 customers in various market segments, and we continue to develop products to
 meet the need of enterprises to constantly improve the retention of, and access to,
 critical data at high performance levels.

27 **Our solutions**

28 The key features of our products include:

1 • *Proprietary controller IC technology.* In order to be first-to-market with
 2 innovative storage technologies, we design the fundamental logic for our SSD
 products. The controllers within our various SSD products are the key to enabling
 high levels of performance and reliability.

3 • *High degree of customization.* Products sold to our customers are typically
 4 customized by our design and engineering teams to meet our customers' specific
 design requirements.

5 * * *

6 • *High reliability.* Our products are built utilizing sophisticated error detection and
 7 correction processes to provide high data reliability and integrity. In addition, our
 products are designed to withstand high levels of shock and vibration as well as
 8 extreme temperature fluctuations.

9 77. These statements were materially false and misleading when made. STEC's
 10 products did not have "high levels of performance and reliability" or "meet . . . customers'
 11 specific design requirements." In truth, Defendants negligently disregarded that competition
 12 would likely enter the market within the next six months. For example, Defendants negligently
 13 disregarded that STEC's competitor, Pliant Technology ("Pliant"), had begun sampling an
 14 enterprise SSD with customers and expected an initial qualification in the fourth quarter. They
 15 also negligently disregarded that other competitors, such as Hitachi, were on track to qualify its
 16 SSD in early 2010. Defendants negligently disregarded this and other information showing
 17 actual competition at least as early as July 2, 2009, when an industry-specific website, Enterprise
 18 Storage Forum, published an article entitled "Solid State Drive Developers Try To Catch STEC."

19 78. Defendants also negligently disregarded that STEC faced the risk that its
 20 customers would seek new vendors to develop and qualify better products, and not continue its
 21 relationship with STEC if it continued to send non-existing, faulty, untested, refurbished, and/or
 22 damaged products as new; fail to deliver promised product features; lied to customers; and
 23 continued to be unable to integrate its products with its key OEMs or generate sufficient demand
 24 from end-user customers.

25 79. Indeed, Defendant Manouch Moshayedi later admitted in a September 21, 2009
 26 interview (after the Moshayedis had unloaded their stock), STEC "never expected to be a single
 27 source in this market forever," and Defendants knew that "[i]t's perfectly inevitable that people
 28 will have second or third qualified vendors in this market."

1 80. Defendants' August 3, 2009 statements and omissions regarding competition were
2 also materially false and misleading because Defendants failed to disclose the significant
3 negative financial impact that STEC would face once competitors entered the market. While
4 STEC was oversupplying its largest customer, EMC, other customers were having trouble
5 integrating STEC products and routinely rejecting faulty products. As new competition would be
6 entering the market at the end of 2009 and beginning of 2010, STEC's largest customer would
7 have no need for its products, while other customers would lack desire for its products.

8 81. The Registration Statement and Prospectus also incorporated by reference STEC's
9 second quarter Form 10-Q filed on August 3, 2009. Item 601(b)(10) of Reg. S-K (17 C.F.R.
10 § 229.601(b)(10)(i)) requires filing with a Form 10-Q "[e]very contract not made in the ordinary
11 course of business which is material to the registrant and is to be performed in whole or in part at
12 or after the filing of the [10-Q] or was entered into not more than two years before such filing."
13 The same filing requirement applies to "[a]ny contract upon which the registrant's business is
14 substantially dependent." 17 C.F.R. § 229.601(b)(10)(ii)(B).

15 82. The EMC Agreement was a "one-off" contract not made in the ordinary course of
16 STEC's business, executed during STEC's 2009 second quarter, and to be performed after the
17 filing of STEC's 2009 second quarter Form 10-Q. STEC's business was substantially dependent
18 on the EMC Agreement, as shown by the collapse of STEC's revenues in the quarter following
19 the end of the EMC Agreement. Defendants omitted to file the EMC Agreement with STEC's
20 2009 second quarter Form 10-Q – or at any time thereafter – thereby violating Reg. S-K. As a
21 matter of law, every violation of Reg. S-K is presumed to be a material violation of Section 11 of
22 the Securities Act.

23 83. Additionally, Defendants' failure to file the EMC Agreement with STEC's 2009
24 second quarter Form 10-Q communicated to investors that the EMC Agreement was made in the
25 ordinary course of STEC's business. This omission was materially misleading.

26 84. Defendants' failure to file the EMC Agreement with STEC's 2009 second quarter
27 10-Q also communicated to investors that STEC's business was not substantially dependent on
28 the EMC Agreement. This omission also was materially misleading.

1 85. As established by Item 303(b) of Reg. S-K, Item 303 sets forth the requirements
 2 for “management’s discussion and analysis [“MD&A”] of financial condition and results of
 3 operations” in Forms 10-Q. Item 303(a)(3)(ii) of Reg. S-K, 17 C.F.R. § 229.303(a)(3)(ii)
 4 requires the registrant to “[d]escribe any known trends or uncertainties that have had or that the
 5 registrant reasonably expects will have a material favorable or unfavorable impact on sales or
 6 revenues or income from continuing operations.”

7 86. The Form 10-Q contains the exact same language that appeared in the Prospectus,
 8 quoted in paragraph 60, *supra*. This statement communicated, among other things, that the EMC
 9 Agreement established a new trend in the level of the recurring volume of purchases by EMC.
 10 Therefore, STEC was required by Item 303 to disclose in the MD&A that, going forward, EMC
 11 was not expected to make a similar volume of purchases every six months. STEC’s omission to
 12 make any such disclosure in the MD&A violated Reg. S-K and is a material omission under the
 13 Securities Act.

14 87. Furthermore, STEC’s second quarter 2009 Form 10-Q (incorporated by reference
 15 in the Registration Statement and Prospectus) stated the following:

16 Our products are designed specifically for storage systems and servers that run
 17 applications requiring a high level of input/output operations per second, or IOPs,
 performance, capacity, reliability and a low amount of latency. . . .

18 88. The foregoing statements trumpeting the quality and reliability of STEC’s
 19 products were materially false and misleading when made because, as detailed herein, Zeus was
 20 not an “enterprise-optimized storage device with an unprecedented combination of performance
 21 and energy efficiency” nor was it “reliab[le].” In truth, Defendants negligently disregarded that
 22 STEC’s customers had trouble integrating Zeus with their systems. Moreover, STEC’s products,
 23 including Zeus, had material problems including, *inter alia*, unusually high failure rates, bugs,
 24 software issues, hardware wear leveling, thermal problems, poor coding, problems with the
 25 controllers, and battery problems.

26 89. The second quarter Form 10-Q, incorporated by reference in the Registration
 27 Statement and Prospectus, reported revenue of \$86.4 million for the second quarter. This
 28 statement of reported revenue was also false and contained misleading material omissions

1 because the Company took steps to artificially generate \$14 million worth of unearned income
 2 and undisclosed channel stuffing in violation of GAAP by manipulating STEC's second quarter
 3 deliveries to the Other OEMs, and manipulating the accounting for those deliveries. Indeed,
 4 subsequent to the 2009 second quarter, revenue from the Other OEMs plunged, and it plunged by
 5 exactly \$14 million – the same amount by which the Company had increased STEC's 2009
 6 second quarter guidance.

7 **VI. THE TRUTH EMERGES**

8 90. Just one month after the Moshayedis unloaded their stock at an inflated price
 9 through the Offering, the truth began to be revealed through a series of partial disclosures. The
 10 stock price immediately plunged following each disclosure and now trades at approximately
 11 \$17.00 – well below the \$31 price at which the Moshayedis unloaded their shares.

12 **A. The September 17, 2009 Partial Disclosure**

13 91. The first partial disclosure occurred on September 17, 2009. On that day,
 14 WedBush Morgan published an analyst report on STEC that identified important new adverse
 15 information regarding competition for STEC's Zeus, which Defendants had adamantly and
 16 repeatedly denied could exist.

17 92. The report, entitled "Checks Indicate Q3 Beat Likely in Cards; but Expect
 18 Changing Competitive Landscape to Pressure Shares Downward," disclosed for the first time
 19 that the "competitive landscape" was "intensifying," and that STEC's "window of opportunity"
 20 to maintain a market leadership position and secure design wins at Tier I OEMS in the
 21 SATA/SAS SSD enterprise market ahead of the competition may be closing."

22 93. The report explained in part:

23 Our industry checks indicate that one of STEC's Tier I OEM enterprise customers
 24 is in final qualification stages with Toshiba for its Single Level Cell (SLC)
 25 NAND-based serial attached SCSI (SAS) interface SSD. While we had expected
 STEC's competitors to gain design wins at its OEMs, we believed this would
 likely not occur until [the first half of 2010].

26 Industry checks lead us to believe a leading Hard Disk Drive (HDD) OEM is
 27 likely set to introduce a SLC SATA/SAS SSD and possibly a Multi-Level-Cell
 (MLC) SSD drive in Q4.

1 94. Thus, it was revealed for the first time that, contrary to Defendants' statements
2 (including just a month earlier on the day the Company filed the Registration Statement) that
3 there is not, and would not be in the foreseeable future, any competition for STEC's enterprise-
4 scale products, at least one competitor, Toshiba, was in the process of qualifying a competitive
5 SSD product with one of STEC's top-tier customers. Wedbush Morgan thus cut its 12-month
6 price target from \$45 to \$39.

7 95. Not only did this report disclose that new competitors were entering the market
8 with products that would threaten STEC's business, but it also revealed that one such competitor,
9 Toshiba, was in the final qualification stage with one of STEC's own customers. Thus, the
10 market learned that the undisclosed risk, that STEC's bad business practices could result in its
11 own customers seeking other vendors for product development, was beginning to materialize.

12 96. In reaction to this news, STEC's stock collapsed \$6.37 per share to close at
13 \$31.53 per share on September 17, 2009 – a one-day decline of over 16%, on volume of more
14 than 21.3 million shares.

15 97. Barron's noted immediately the impact of the new negative information on the
16 stock price. In a September 17, 2009 article entitled "STEC: New Competition Coming In
17 Enterprise SSDs, Wedbush Says," Barron's reported that "STEC shares are under pressure this
18 morning from a cautious note by Wedbush Morgan analyst Betsy Van Hees."

19 98. Defendants quickly responded to counteract this negative news. Two business
20 days after the Wedbush Morgan report, on September 21, 2009, STEC published a "whitepaper"
21 entitled "STEC Addresses Advantages, Key Differentiators and Competitive Aspects of
22 Enterprise Solid State Drives (SSDs)" and Defendant Manouch Moshayedi conducted an
23 interview in an attempt to reassure investors that STEC did not, in fact, face competition. During
24 that interview he reassured investors: "You don't snap your fingers and get there. Just because
25 Pliant announced (a new line of products), doesn't mean competition."

26 99. In a September 25, 2009 analyst report, B. Riley & Co. recognized that "investors
27 have sheared nearly 32% off STEC's market cap, spurred by recognition of encroaching
28 competition from both established SSD players and new entrants to the market." B. Riley & Co.

1 nevertheless raised STEC to a "Buy," citing STEC's representations that the Company "is
2 shipping enviable volumes of ZeusIOPS drives to EMC, and has yet to see the production ramp
3 from IBM, Hitachi and Sun, let alone newer customers."

4 **B. The November 3, 2009 Partial Disclosure**

5 100. After the market closed on November 3, 2009, STEC disclosed for the first time
6 that the \$120 million EMC deal that Defendants announced just four months earlier had supplied
7 EMC with excess inventory into first quarter 2010. Defendants also disclosed that the EMC deal
8 was only a one-time deal, and, contrary to the Company's prior representations, was not
9 indicative of strong demand and future revenue growth for STEC SSDs. STEC's press release
10 quoted Defendant Manouch Moshayedi, in part:

11 One of our customers entered into a \$120 million supply agreement with us for
12 shipments covering the second half of 2009. We recently received preliminary
13 indications that our customer might carry inventory of our ZeusIOPS at the end
14 of 2009 which they will use in 2010.

15 101. During the related November 3, 2009 analyst conference call, Defendant
16 Manouch Moshayedi was asked by an analyst: "With the supply agreement, I guess even when
17 the inventory eventually runs out, do you expect to have the supply agreement renewed?"
18 Manouch Moshayedi responded:

19 It is possible. It depends on where we are at that point in terms of the whole
20 supply that's out there. . . . I don't think that we need at this point to sign another
21 supply agreement with a customer who is buying exclusively from us and doing
22 everything that they can to promote our SSDs. *So when we did sign the last*
23 *supply agreement, we did - this was a one-off type of a deal.* It was a very big
24 deal for us and we had to go buy the products. Once we bought the products and
25 we've got chips coming into us, and since the rest of the customers haven't
26 picked up yet, I don't think we're going to be asking our customer for another
27 commitment on - I don't think we are going to need a commitment. (Emphasis
28 added.)

29 102. This was the first time that STEC had acknowledged that, contrary to the
30 Company's prior statements, including in the Registration Statement and Prospectus, that the
31 \$120 million EMC deal was for third and fourth quarter 2009, it had supplied EMC with
32 inventory into first quarter 2010. Likewise, it was the first time that STEC had acknowledged
33 that, contrary to STEC's prior statements that the \$120 million EMC deal was indicative of

1 future revenue from STEC's SSDs (and analysts' echoing of Defendants' statements, such as the
2 October 28, 2009 statement by Rothman Research just days earlier that the agreement "is a
3 further indication of future SSD growth and customers' acceptance of SSDs into this growing
4 market"), the EMC deal was *not* indicative of future SSD growth, but rather was a "*one-off type*
5 *of deal*," i.e., a one-time deal, with no commitment for future deals.

6 103. Manouch Moshayedi also indicated during the related November 3, 2009 analyst
7 conference call that sales of the Zeus line in the latest quarter were \$60.7 million, below previous
8 guidance of \$67 million to \$68 million. He also indicated that sales of Zeus to IBM had also
9 been disappointing because "IBM has not found a way of going and implementing SSDs into the
10 market yet," and that demand from Sun Microsystems also is "a little bit slow for us."

11 104. Several analysts took note of the Company's "changed" visibility. For example,
12 during the conference call, analyst Jeffrey Schreiner ("Schreiner") questioned the accuracy of the
13 Company's prior statements that there was no real competitive threat. Mr. Schreiner also noted
14 that "Your visibility seems to have changed. I don't want to, I guess, use any adjectives. Let's
15 just say it's changed, but when do you believe the prior visibility returns?"

16 105. Another analyst, Kevin Vassily ("Vassily"), questioned why Defendants Manouch
17 and Mark Moshayedi had sold a majority of their position in STEC stock at just the right time.
18 Mr. Vassily also questioned whether the Company had any knowledge then that EMC was not
19 pushing through as much inventory as STEC might have thought. Rather than respond to the
20 analyst's question of whether *he* had any knowledge regarding EMC's build-up of inventory at
21 the time of his insider sales, Defendant Manouch Moshayedi responded only that, at the time the
22 Moshayedis sold their stock, EMC had just placed that purchase order, "so I don't think at that
23 time that they knew that three months down the road, their sales flow wasn't going to be as good
24 as they had thought." He further explained – while avoiding a response to the question of
25 whether he had any knowledge of the excess inventory – that "[t]he reason why they put that
26 sale, that PO in place was to make sure that they have secured amount [sic] of flash and we can
27 build enough for the demand."
28

1 106. In the November 3, 2009 announcement, the Company attempted to reassure
 2 investors of customer acceptance and future revenue growth from STEC SSDs, explaining that
 3 STEC and EMC had initiated a joint "marketing program" to promote the integration of STEC's
 4 SSDs. Defendant Manouch Moshayedi explained:

5 In light of this development, we have jointly initiated a strategic sales and
 6 marketing incentive program designed to promote the integration of STEC's
 7 SSDs into their systems. As of September 30, 2009, we have accrued \$1.5
 8 million of estimated costs for this marketing incentive program. Both companies
 9 believe that we will be successful in increasing the pace of the replacement of
 HDDs with SSDs. If our marketing program is not successful in increasing the
 demand flow of SSDs, our first quarter of 2010 orders from this customer will be
 negatively affected; however, the actual impact cannot be quantified at this time.

10 107. In response to a direct question of whether the "excess inventory" would impact
 11 only STEC's first quarter, or both its first and second quarter revenue numbers, Manouch
 12 Moshayedi reassured investors that the issue would not "be that huge," and that the excess
 13 inventory issue *would not impact STEC's second quarter revenue numbers.*

14 108. In further reassuring investors of prospects for acceptance by customers and
 15 resulting revenue from STEC's SSDs, Manouch Moshayedi explained as follows:

16 We are also working on implementing sales and marketing incentive programs at
 17 our other major customers to further proliferate the use of our SSDs in their
 18 systems. We believe that it is just a matter of time before these customers
 19 become more significant to our overall sales of SSDs. In addition, we continue to
 20 qualify our ZeusIOPS into new platforms at our customers and are working
 closely with them to promote integration of SSDs into their systems by
 participating in sales conferences and end-user training programs both in the U.S.
 and in Europe. We believe these activities will help accelerate the adoption of
 our SSDs over the course of 2010.

21 Longer-term, we believe that SSDs in the Enterprise market are here to stay and
 22 will grow to become a very significant market within the next five years. Further,
 23 we believe that as this market grows, there will be room for a few additional
 players and that STEC will remain the dominate player in Enterprise-class SSDs.

24 109. Defendant Manouch Moshayedi also began to disclose STEC's reliance on EMC,
 25 revealing to investors that "EMC still remains our top customer," and that "most of our
 26 ZeusIOPS is done through EMC," with 90% coming from EMC.

27 110. Defendant Manouch Moshayedi further explained that:
 28

SSD as a whole is here to stay. It's going to grow quarter-after-quarter, year-after-year, and we'll be a big part of it going forward. . . . EMC is very much in line with our thought process that SSD is extremely important in the enterprise storage markets. So are the rest of the customers. It's just a matter of training and doing enough marketing to get the sales departments of everybody on board.

111. Also during the related November 3, 2009 analyst conference call, Defendant Manouch Moshayedi stated that the problem with SSD sales was the lack of sales force efforts and consumer knowledge about SSDs. He assured investors that the joint marketing program "will push through any sort of inventory issues and it will, in the future quarters, will pick up any sort of sales that they might have in this product line," and that "on a go-forward basis . . . if it's really successful, it could really change our revenue model as a whole for 2010 and beyond." He detailed that the program would include, for example, "incentives" for sales personnel to push Zeus to customers and offering rebates to customers.

112. Defendant Manouch Moshayedi remained adamant during the call that STEC has no competition for Zeus. For example, an Oppenheimer analyst commented that "there's just a lot of skepticism right now around your company and its ability to compete." The analyst asked Defendant Manouch Moshayedi "if there is anything you can say or do here to convince us that it's not competition that it really is a problem with end demand in terms of SSD adoption." Manouch Moshayedi responded as follows:

What I can tell you is there is absolutely no competition. To this date, we have not seen and nor has [EMC] seen a product that competes with our ZeusIOPS. So we are the only supplier of ZeusIOPS or ZeusIOPS like SSD into enterprise storage markets today. There is not one single competitor out there. If there were competitors coming in, we would estimate that they would come in somewhere around mid-2010. And if they were to go qualify with a product that actually does qualify, it would be somewhere around first or second quarter of 2011. We do not foresee a competitor coming in anytime soon into this market and all of this – these reports that competition has come in are absolutely false. None of our customers are going with a competitor, and there is absolutely no competition today for our ZeusIOPS product line in any of our customers.

113. Despite Defendants' attempted reassurances, in reaction to STEC's November 3, 2009 disclosure, shares of STEC stock plunged \$9.01 per share to close at \$14.14 per share on November 4, 2009, a one-day decline of 39% on volume of 32 million.

1 114. A Tech Trader report late in the day on November 3, 2009, reported that STEC's
2 stock price was being "whacked" as a result of the announcement regarding EMC's excess
3 inventory of STEC's Zeus product.

4 115. As a result of the November 3, 2009 announcement, on November 4, 2009,
5 several analysts who had previously been bullish on STEC downgraded STEC stock.

6 116. For example, Oppenheimer & Co. downgraded the stock to "Perform" from
7 "Outperform," slashing its price target in half to \$21 from \$45, explaining that it had been
8 "pistol-whipped." Oppenheimer & Co. pointed to STEC's newly disclosed problems with
9 selling-through Zeus at EMC and with developing new customers for Zeus, such as HP and IBM.

10 117. J.P. Morgan, too, lowered its estimates and lowered its price target to \$42 from
11 \$50, citing the excessive inventory and competition concerns as follows: "Excess inventory at
12 EMC and the establishment of a new marketing incentive program to educate EMC sales
13 personnel stands to fuel investors' concerns of competitive shifts in the making."

14 118. ThinkEquity LLC also cut its rating to "Hold" from "Buy," explaining "We got
15 this one wrong" and pointing in part to "competitive pressures" and "inventory risk."

16 119. Deutsche Bank cut its revenue, earnings per share ("EPS") estimates and price
17 target in order to reflect the slower adoption of SSDs into the enterprise market. It reported that
18 the "big announcement" on the STEC conference call was that EMC may not be able to sell the
19 entire \$120 million it has committed in purchasing the second half of 2009, creating the potential
20 for lower sales in first quarter 2010.

21 120. Wedbush Morgan cut its rating to "Neutral" from "Outperform" and reduced its
22 price target to \$18 from \$39 per share in a report entitled "Down for the Count After Last Night's
23 Blindsided Knock Out Punch." Wedbush Morgan noted that although the analyst had prior
24 concerns about STEC's competition, she was "completely caught off guard" by the stall in the
25 adoption rates of SSDs and the excess inventory at EMC which STEC said could be carried into
26 first quarter 2010. Just hours earlier on that same day, but prior to STEC's startling disclosure,
27 Wedbush had reiterated its "Outperform" rating for STEC and \$39 price target, emphasizing
28 STEC's "strong demand for ZeusIOPS at its leading Tier 1 customer EMC."

1 121. Needham likewise lowered its price target to \$30 from \$46, citing the “EMC
2 inventory overhang.” Echoing the assurances by Manouch Moshayedi during the earnings
3 conference call, however, Needham indicated that the inventory issue was only “temporary” and
4 would impact only first quarter 2010.

5 122. B. Riley & Co., LLC, too, focused on the disclosed “inventory concerns.” But
6 echoing Defendant Manouch Moshayedi’s reassurances during the November 3, 2009 conference
7 call, B. Riley & Co., LLC stated that it expected only first quarter 2010 would be impacted and
8 that EMC is not giving up on STEC.

9 123. On November 16, 2009, Seeking Alpha published an article entitled “STEC
10 Revisited: Will It Go From Good To Great?” The article noted that the stock price has
11 plummeted after the November 3 disclosure as a result of:

12 **Concern over management integrity and credibility.** Whether management
13 knew about the demand/inventory issue in advance or not, the market found it too
14 coincidental that top management made such a substantial sale of stock in the
15 very quarter they blew up. At the same time the potential question of integrity
16 was being debated, they made it worse in the earnings conference call by not
17 appearing to have concrete answers about the inventory at their largest customer
18 who will generate over 60% of the revenues in the second half.

19 124. On November 17, 2009, STEC hosted an Analyst Day in New York. As reiterated
20 by analysts such as Needham, STEC reassured analysts (and investors) of the competitive
21 landscape purportedly favoring STEC and that the EMC issue was only “short-term inventory
22 noise.”

23 125. Shortly thereafter, on December 3, 2009, STEC presented at the J.P. Morgan
24 SMid Cap Conference in New York. Following STEC’s representations at the conference,
25 analysts such as J.P. Morgan again reiterated that the excess inventory was expected to impact
26 only first quarter 2010.

27 **C. The February 23, 2010 Disclosure**

28 126. The final disclosure occurred on February 23, 2010. On that day, STEC further
shocked the market when it stated in a press release issued after the close of market trading that
the inventory carry-over at EMC would not only hurt STEC’s first quarter 2010 revenues as

1 previously announced in November, but that it would also negatively impact STEC's sales for
2 the entire first half of 2010, stating:

3 We believe that the first half of 2010 will be a trough period for our business due
4 to an inventory carryover by our largest customer [EMC]. Although, we believe
5 the marketing programs that we implemented last quarter have had a positive
6 effect on the sell-through of SSDs, based on our best estimates we now anticipate
7 this inventory carryover to continue to negatively impact our sales to [EMC]
8 during the first half of 2010, as we do not expect any meaningful production
9 orders from [EMC] during that time.

10 127. The Company also announced that it expected first quarter of 2010 revenue of
11 \$33 million to \$35 million, contrasting sharply with the projections of \$79.73 million by analysts
12 – who had relied on Defendants' prior representations – and vastly lower than the \$106 million
13 reported for the fourth quarter of 2009.

14 128. During the related February 23, 2010 earnings call, Manouch Moshayedi
15 explained that the products that STEC sold to EMC in the second half of 2009 would not cover
16 EMC's inventory needs for just six months, but for an entire year, until mid-2010. Also during
17 the conference call, Defendants disclosed that EMC had accounted for 62% of STEC's overall
18 revenue for the fourth quarter, but it would plummet to 0% of STEC's revenue for the first half
19 of 2010.

20 129. STEC's negative disclosure on February 23, 2010, related not only to EMC, but to
21 the adoption of STEC's enterprise-scale SSDs by other customers as well. Following an
22 analyst's question regarding revenue guidance from Zeus customers other than EMC, Manouch
23 Moshayedi responded:

24 On the rest of the customers, everyone is growing very slowly, however. We are
25 starting to implement marketing programs with everyone. However, those things
26 take at least three to six months to take hold. So, again, that is why we put
27 second half of this year as the time to see growth again in this market.

28 Manouch Moshayedi also finally admitted that, contrary to his prior representations, the joint
marketing program had not actually been adopted by any customer other than EMC.

130. This was the first time that STEC had admitted that, contrary to Defendants' prior
reassurances that the EMC inventory overhang would impact only first quarter, it would, in fact,
impact the entire first half of 2010.

1 131. This was also the first time investors learned that STEC was so substantially
2 dependent on EMC that STEC's revenues would plummet without EMC's business. This news
3 revealed that STEC could not "find a replacement customer for the relevant product," as it had
4 previously represented to the SEC and that, also contrary to its representations to the SEC, its
5 business *would* be "fundamentally altered without a specific customer sales agreement" with
6 EMC. As STEC's other customers remained dissatisfied with STEC's products and unable to
7 integrate STEC's products with their own, they could not compensate for the revenue gap created
8 by EMC's inventory overhang, and STEC was forced to issue guidance for first quarter 2010 for
9 a mere third of the prior quarter's revenue.

10 132. These disclosures also revealed the essential failure of the joint marketing
11 program. Manouch Moshayedi admitted during the earnings call that STEC's incremental effort
12 for sales beyond its initial customers, who use short-stroking techniques on HDDs, had been
13 more difficult than originally expected. The market realized that it was not sales force incentives
14 or education that were needed, but rather that the product simply did not fit end users' needs and
15 did not provide efficient and reliable performance sufficient to justify the high price tag. As
16 discussed during the earnings call, future iterations of the product, now being worked up, might
17 better address the market's needs. Indeed, Manouch Moshayedi admitted during the earnings
18 call that "in terms of payout [the joint marketing program] is a bit less than what we had
19 expected."

20 133. In the Company's Form 10-K for the year ended December 31, 2009, filed with
21 the SEC on February 23, 2010, Defendants announced for the first time that that they were under
22 investigation for insider trading, stating in part:

23 [T]he United States Securities and Exchange Commission ("SEC") is conducting
24 a formal investigation involving trading in our securities. Certain of our officers
25 and employees, including our CEO and President, have received subpoenas in
connection with this investigation.

26 134. In reaction to this news revealed on February 23, 2010, STEC shares dropped
27 over 23% in trading on February 24, 2010, a decline of \$3.15, on extraordinary volume of over
28 36 million shares.

1 135. Analysts immediately further reduced their ratings and price targets, and
2 expressed a "loss of confidence in STEC management."

3 136. For example, following STEC's February 23, 2010 disclosure, on
4 February 24, 2010, Wedbush reduced its 12-month price target to \$10 from \$14, which it had set
5 just two days earlier on February 22, 2010. Wedbush cited the "significant magnitude of the
6 inventory over-hang" coupled with uncertain adoption rates of SSDs in enterprise applications.

7 137. Thomas Weisel Partners, too, lowered its rating on STEC to "market weight,"
8 noting the inventory overhang at EMC and slower adoption rate of enterprise SSDs. The analyst
9 also expressed *"our loss of confidence in STEC management."*

10 138. Oppenheimer, too, reset its estimates, noting that STEC had hit "rock bottom,"
11 and explaining that whereas the market understood the \$120 million EMC deal to be indicative
12 of a half-year run rate, it had now been disclosed that it was indicative of a full-year run rate.
13 Oppenheimer further explained that "EMC completely turned-off the spigot with STEC in 1Q,"
14 going from a 62% customer to 0% over one quarter. Oppenheimer therefore explained that "[a]s
15 a result, our '10 estimate falls to its knees to \$0.15 vs. our prior estimate of \$2.00."

16 139. Deutsche Bank, too, noted that, while the market had known since November that
17 EMC had extra inventory of SSDs, it had understood that EMC's demand for SSDs was higher
18 than the Company now reports in February. Specifically regarding the \$120 million deal that
19 Defendants had touted back in July 2009 just prior to their stock offering, Deutsche Bank stated
20 that "In retrospect, the EMC volume purchase agreement did more harm than good, as a clearer
21 read on EMC's sales would have given a better sense of where the market was trending."

22 140. J.P. Morgan also downgraded the stock, citing the market's belief that STEC's
23 greater-than-expected revenue miss also stems from new competition and stating that "[w]e had
24 been too optimistic, thinking the EMC inventory overhang would be a one-quarter issue."

25 141. ThinkEquity LLC too recognized that the Company's most recent announcement
26 raised questions, including the facts that Zeus had not been able to sell through and competition
27 was increasing. Needham also lowered its estimates, citing the Company's lowered guidance as
28 "a clear result of excess inventory and slower adoption."

1 142. In sum, as detailed above, beginning following the Company's September 17,
2 2009 disclosure, STEC's share price reacted negatively to the disclosures of the truth regarding
3 Defendants' materially false and misleading statements and omissions, as the artificial inflation
4 was removed from the share price. As a result of their purchases of STEC shares in or traceable
5 to the Offering, Plaintiff and the Class suffered economic loss.

6 **VII. CLASS ACTION ALLEGATIONS**

7 143. Plaintiff brings this action as a class action on behalf of all persons or entities who
8 purchased or otherwise acquired STEC common stock pursuant or traceable to the Offering, and
9 who were damaged thereby (the "Class"). Excluded from the Class are Defendants, the officers
10 and directors of STEC, at all relevant times, members of their immediate families and their legal
11 representatives, heirs, successors, or assigns and any entity in which Defendants have or had a
12 controlling interest.

13 144. The members of the Class are so numerous that joinder of all members is
14 impracticable. During the relevant period alleged herein, STEC common shares were actively
15 traded on the NASDAQ. STEC has nearly 50 million shares of STEC common stock issued and
16 outstanding. The Moshayedi's sold 9 million shares in the Offering. While the exact number of
17 Class Members is unknown to Plaintiff at this time and can only be ascertained through
18 appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the
19 Class. Record owners and other members of the Class may be identified from records
20 maintained by STEC or its transfer agent or the Underwriter Defendants and may be notified of
21 the pendency of this action by mail, using the form of notice similar to that customarily used in
22 securities class actions.

23 145. There is a well-defined community of interest in the questions of law and fact
24 involved in this case. Questions of law and fact common to the members of the Class which
25 predominate over questions which may affect individual Class Members include:

26 (a) Whether the Registration Statement and/or Prospectus omitted or
27 misrepresented facts;

28 (b) Whether the misrepresentations or omissions were material; and

1 (c) The extent of damage sustained by Class Members.

2 146. Plaintiff's claims are typical of those of the Class because Plaintiff and the Class
3 have claims under the Securities Act and sustained damages from Defendants' wrongful conduct
4 in violation of federal law that is complained of herein.

5 147. Plaintiff will adequately protect the interests of the Class and has retained counsel
6 who are experienced in class action securities litigation. Plaintiff has no interests which conflict
7 with those of the Class.

8 148. A class action is superior to other available methods for the fair and efficient
9 adjudication of this controversy since joinder of all members of the Class is impracticable.
10 Furthermore, as the damages suffered by individual members of the Class may be relatively
11 small, the expense and burden of individual litigation make it impossible for members of the
12 Class to individually redress the wrongs done to them. There will be no difficulty in the
13 management of this action as a class action.

14 **VIII. TOLLING OF STATUTE OF LIMITATIONS**

15 149. On November 6, 2009, Hadi Sakhai, individually and on behalf of all others
16 similarly situated, filed a class action complaint on behalf of purchasers of publicly traded STEC
17 securities against Defendants STEC, Inc., Manouch Moshayedi, Mark Moshayedi, Raymond D.
18 Cook, J.P. Morgan Securities, Inc., Deutsche Bank Securities, Inc., Barclays Capital Inc. and
19 Oppenheimer & Co., Inc. The complaint alleges violations of Sections 11, 12(a)(2) and 15 of the
20 Securities Act, and Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange
21 Act"). See *Sakhai v. STEC, Inc., et al.*, No. 09-cv-01306 (C.D. Cal.) ("*Sakhai*"). Five other
22 related class actions were filed against the Defendants alleging essentially the same securities
23 laws as the *Sakhai* complaint. See *Jean v. STEC, Inc., et al.*, No. 09-cv-01304 (C.D. Cal. Nov. 6,
24 2009); *Greenwald v. STEC, Inc., et al.*, No. 09-cv-01315 (C.D. Cal. Nov. 9, 2009); *Munter v.*
25 *STEC, Inc. et al.*, No. 09-cv-01320 (C.D. Cal. Nov. 10, 2009); *Weinberger v. STEC, Inc., et al.*,
26 No. 09-cv-08536 (C.D. Cal. Nov. 19, 2009); and *Fischer v. STEC, Inc., et al.*, No. 09-cv-01460
27 (C.D. Cal. Dec. 11, 2009).

1 150. On January 21, 2010, United States District Court Judge James V. Selna
2 consolidated the six related class actions cases alleging securities law violations with respect to
3 STEC under the consolidated caption *In re STEC, Inc. Securities Litigation*, Lead Case No.
4 SACV 09-01304-JVS (MLGx) (C.D. Cal.) (the "Consolidated Action"). On April 9, 2010, a
5 Consolidated Complaint was filed against Defendants.

6 151. On July 14, 2010, Judge Selna appointed a new lead plaintiff in the Consolidated
7 Action. On August 13, 2010, the new lead plaintiff filed an Amended Consolidated Complaint
8 (the "Amended Complaint"). The Amended Complaint alleges claims for violation of Sections
9 11, 12(a)(2) and 15 of the Securities Act, and Sections 10(b), 20(a) and 20A of the Securities
10 Exchange Act of 1934 (Exchange Act").

11 152. On January 10, 2011, Judge Selna granted Defendants' motion to dismiss the
12 Amended Consolidated Complaint with leave to amend. On February 22, 2011, the Second
13 Amended Consolidated Complaint ("Second Amended Complaint") was filed in the
14 Consolidated Action, again asserting the Securities Act and Exchange Act claims. On June 17,
15 2011, Judge Selna denied Defendants' motion to dismiss the Exchange Act claims. Judge Selna
16 expressly found that the Second Amended Complaint adequately alleges material
17 misrepresentations in support of the Securities Act claims, but dismissed the Securities Act
18 claims without prejudice because the plaintiff conceded that it had not purchased shares pursuant
19 to the Offering, and had failed to establish that it purchased shares traceable to the Offering.

20 153. The *Sakhai* class action complaint and the other complaints described above were
21 filed less than one year after the discovery of the untrue statements and omissions contained in
22 the Offering documents and less than three years after the offering to the public. Their filing
23 served to toll any statute of limitations or repose for the claims set forth in this complaint
24 pursuant to the doctrine announced in *American Pipe & Constr. Co. v. Utah*, 414 U.S. 538, 552
25 (1974), and approved in *Jolly v. Eli Lilly & Co.*, 44 Cal. 3d 1103, 1119-22 (1988).

26 **IX. CLAIMS FOR RELIEF**

27 154. The claims alleged herein are not based on and do not sound in fraud. Plaintiff
28 does not allege that Defendants acted with scienter or fraudulent intent. Plaintiff expressly

1 excluded and disclaims any allegation that could be construed as alleging fraud or intentional or
2 reckless misconduct.

3 **COUNT I**

4 **FOR VIOLATION OF SECTION 11 OF THE SECURITIES ACT**
5 **(AGAINST THE OFFICER DEFENDANTS, BAHRI AND STEC)**

6 155. Plaintiff incorporates by reference each and every allegation contained above, as
7 if set forth herein.

8 156. This Count is asserted against the Officer Defendants, Defendant Bahri and
9 STEC, and predicated upon the liability of the Defendants named in this Count for making false
10 and materially misleading statements and omissions in the Registration Statement issued in
11 connection with the Offering.

12 157. STEC was the registrant of the Offering and the issuer of the stock issued via the
13 false Registration Statement. As such, STEC is strictly liable for each false and misleading
14 statement contained therein.

15 158. The Officer Defendants and Defendant Bahri are each signatories of the
16 Registration Statement, therefore, each of these Defendants had a duty to make a reasonable
17 investigation of the statements contained in the Registration Statement and Prospectus to ensure
18 that said statements were true and that there was no omission to state any material fact required
19 to be stated in order to make the statements contained therein not misleading. In the exercise of
20 reasonable care, the Officer Defendants and Defendant Bahri should have known of the material
21 misstatements and omissions contained in the Registration Statement and Prospectus and also
22 should have known of the omissions of material fact necessary to make the statements made
23 therein not misleading. As such, each of these Defendants is liable to Plaintiff and the Class.

24 159. Each of the Defendants named in this Count caused to be issued and participated
25 in the issuance of materially false and misleading written statements to the investing public that
26 were contained in the Registration Statement, which misrepresented or failed to disclose, *inter*
27 *alia*, the facts set forth above. Each of these Defendants owed to the purchasers of the shares
28 issued in the Offering the duty to conduct a reasonable and diligent investigation of the

1 statements contained in the Registration Statement, and any incorporated documents, at the time
 2 it became effective to ensure that such statements were true and that there were no omissions of
 3 material fact that rendered them materially misleading. Each of these Defendants did not
 4 conduct a reasonable investigation or possess reasonable grounds to believe that the statements
 5 contained in the Registration Statement were true, without omissions of any material facts, and
 6 were not misleading.

7 160. By reasons of the conduct alleged herein, each of the Defendants named in this
 8 Count violated, and/or controlled a person who violated Section 11 of the Securities Act. As a
 9 direct and proximate result of these Defendants' wrongful conduct, the price for the STEC
 10 common stock sold in the Offering was artificially inflated and Plaintiff and the Class suffered
 11 substantial damages in connection with their purchases of STEC common stock in or traceable to
 12 the Offering.

13 161. Plaintiff and other members of the Class who acquired their STEC stock in the
 14 Offering did not know and, in the exercise of reasonable diligence could not have known, of the
 15 untruths and omissions contained or incorporated by reference in the Registration Statement.
 16 The value of the shares sold in the Offering has declined substantially due to violations of
 17 Section 11 of the Securities Act by the Defendants named in this Count. Plaintiff and the other
 18 members of the Class were thus damaged by these Defendants' misconduct and by the material
 19 misstatements and omissions of the Registration Statement.

20 162. By reason of the foregoing, the Defendants named in this Count are liable for
 21 violations of Section 11 of the Securities Act to Plaintiff and all members of the Class who
 22 purchased or otherwise acquired shares of STEC common stock pursuant or traceable to the
 23 Offering.

24 COUNT II

25 **FOR VIOLATION OF SECTION 11 OF THE SECURITIES ACT** 26 **(AGAINST THE UNDERWRITER DEFENDANTS)**

27 163. Plaintiff repeats and re-alleges each and every allegation contained above as if
 28 fully set forth herein.

1 164. This Count is asserted against the Underwriter Defendants, and is predicated upon
2 the Underwriter Defendants' negligence for making false and materially misleading statements
3 and omissions therein.

4 165. Each of the Underwriter Defendants was responsible for the contents and
5 dissemination of the Registration Statement for the Offering. Each of the Underwriter
6 Defendants acted negligently and is liable to Plaintiff and all other persons who purchased or
7 otherwise acquired STEC common stock pursuant or traceable to the Offering. Each of the
8 Underwriter Defendants caused to be issued and participated in the issuance of materially false
9 and misleading written statements to the investing public that were contained in the Registration
10 Statement, which misrepresented or failed to disclose, *inter alia*, the facts set forth above. Each
11 of the Underwriter Defendants owed to the purchasers of the shares issued in the Offering the
12 duty to conduct a reasonable and diligent investigation of the statements contained in the
13 Registration Statement, and any incorporated documents, at the time it became effective to
14 ensure that such statements were true and that there were no omissions of material fact that
15 rendered them materially misleading. Each of the Underwriter Defendants did not conduct a
16 reasonable investigation or possess reasonable grounds to believe that the statements contained
17 in the Registration Statement were true, without omissions of any material facts, and were not
18 misleading.

19 166. By reasons of the conduct alleged herein, each Underwriter Defendant violated
20 Section 11 of the Securities Act. As a direct and proximate result of the Underwriter Defendants'
21 wrongful conduct, the price for the STEC common stock sold in the Offering was artificially
22 inflated and Plaintiff and the Class suffered substantial damages in connection with their
23 purchase of STEC common stock in or traceable to the Offering.

24 167. Plaintiff and other members of the Class who acquired their STEC stock in the
25 Offering did not know and, in the exercise of reasonable diligence could not have known, of the
26 untruths and omissions contained or incorporated by reference in the Registration Statement.
27 The value of the shares sold in the Offering has declined substantially due to Defendants'
28 violations of Section 11 of the Securities Act. Plaintiff and the other members of the Class were

1 thus damaged by the Underwriter Defendants' misconduct and by the material misstatements and
2 omissions of the Registration Statement.

3 168. By reason of the foregoing, each Underwriter Defendant is liable for violations of
4 Section 11 of the Securities Act to Plaintiff and all members of the Class.

5 COUNT III

6 **FOR VIOLATION OF SECTION 12(a)(2) OF THE SECURITIES ACT** 7 **(AGAINST STEC, MANOUCH MOSHAYEDI, AND MARK MOSHAYEDI)**

8 169. Plaintiff repeats and re-alleges each and every allegation contained above as if
9 fully set forth herein.

10 170. This Count is asserted against Defendants STEC, Mark Moshayedi, and Manouch
11 Moshayedi, and is predicated upon the liability of the Defendants named in this Count for
12 offering or selling stock by means of a prospectus that contained untrue statements of material
13 fact and misleading omissions of material fact.

14 171. STEC sold and solicited the purchase of its common stock by the use of means or
15 instruments of transportation or communication in interstate commerce or of its mails, by means
16 of the Prospectus. The Registration Statement, under which STEC is the registrant, states that
17 "for the purpose of determining liability of the registrant under the Securities Act of 1933 to any
18 purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in
19 a primary offering of securities . . . regardless of the underwriting method used to sell the
20 securities to the purchaser . . . the undersigned registrant will be a seller to the purchaser and will
21 be considered to offer or sell such securities to such purchaser."

22 172. Defendants Mark and Manouch Moshayedi solicited the purchase of STEC
23 common stock by the use of means or instruments of transportation or communication in
24 interstate commerce or of the mails, by means of the Prospectus and by causing STEC to issue
25 press releases on August 3, 2009, and August 6, 2009, publicizing the Offering. Additionally,
26 Defendants Mark and Manouch Moshayedi signed the Registration Statement pursuant to which
27 STEC common stock was offered and sold. Further, Defendants Mark and Manouch Moshayedi
28

1 were motivated to serve their own personal financial interests when they solicited the sale of nine
2 million of their personally held shares of STEC common stock in the Offering.⁵

3 173. The Prospectus contained untrue statements of material fact, omitted to state other
4 facts necessary to make the statements made therein not misleading, and concealed and failed to
5 disclose material facts.

6 174. Each of the Defendants named in this Count owed to the purchasers of the shares
7 issued in the Offering the duty to conduct a reasonable and diligent investigation of the
8 statements contained in the Prospectus and in any incorporated documents at the time the
9 Prospectus became effective, to ensure that such statements were true and that there were no
10 omissions of material fact that rendered any such statements materially misleading.

11 175. Each of the Defendants named in this Count did not conduct a reasonable
12 investigation or possess reasonable grounds to believe that the statements contained or
13 incorporated by reference in the Prospectus were true, without omissions of any material facts,
14 and not misleading.

15 176. Plaintiff and the other members of the Class who acquired their STEC stock in the
16 Offering did not know and, in the exercise of reasonable diligence could not have known, of the
17 untruths and omissions contained or incorporated by reference in the Prospectus.

18 177. The value of the shares sold in the Offering declined substantially due to the
19 violations of Section 12(a)(2) of the Securities Act by the Defendants named in this Count.
20 Plaintiff and the other members of the Class were thus damaged by the material misstatements
21 and omissions of the Prospectus and the misconduct of the Defendants named in this Count.

22 178. Plaintiff and all members of the Class who purchased or otherwise acquired
23 shares of STEC common stock pursuant to the Offering who still hold such securities have the
24 right to rescind and recover the consideration exchanged for those shares of STEC common
25

26 ⁵ The press release announcing the Offering says it is "a public offering . . . by Manouch
27 Moshayedi [and] Mark Moshayedi." The press release announcing the pricing of the Offering
28 describes the Moshayedis as "the selling shareholders," and states that "STEC will not receive
any of the proceeds of the offering."

1 stock, and hereby tender their shares of STEC common stock to the Defendants named in this
 2 Count. Plaintiff and Class Members who have sold STEC common stock that they acquired
 3 pursuant to the Prospectus seek damages to the extent permitted by law.

4 179. By reason of the foregoing, each of the Defendants named in this Count is liable
 5 for violations of Section 12(a)(2) of the Securities Act to Plaintiff and all members of the Class.

6 **COUNT IV**

7 **FOR VIOLATION OF SECTION 12(a)(2) OF THE SECURITIES ACT** 8 **(AGAINST THE UNDERWRITER DEFENDANTS)**

9 180. Plaintiff repeats and re-alleges each and every allegation contained above as if
 10 fully set forth herein.

11 181. This Count is asserted against each of the Underwriter Defendants, and is
 12 predicated upon such Underwriter Defendants' negligent offering or sale of STEC stock by
 13 means of the false and misleading Prospectus.

14 182. Each Underwriter Defendant is a seller within the meaning of the Securities Act
 15 because it transferred title to members of the Class who purchased STEC stock in the Offering.
 16 Each Underwriter Defendant directly sold STEC common stock to members of the Class who
 17 purchased in the Offering.

18 183. The Prospectus contained untrue statements of material fact, omitted to state other
 19 facts necessary to make the statements made therein not misleading, and concealed and failed to
 20 disclose material facts.

21 184. Each Underwriter Defendant owed to those who purchased shares issued in the
 22 Offering from such Underwriter Defendant the duty to conduct a reasonable and diligent
 23 investigation of the statements contained in the Prospectus and any incorporated documents at
 24 the time it became effective, to ensure that such statements were true and that there were no
 25 omissions of material fact that rendered them materially misleading.

26 185. Each Underwriter Defendant did not conduct a reasonable investigation or possess
 27 reasonable grounds to believe that the statements contained or incorporated by reference in the
 28 Prospectus were true, without omissions of any material facts, and not misleading.

186. Plaintiff and other members of the Class who purchased or otherwise acquired STEC stock in the Offering did not know and, in the exercise of reasonable diligence could not have known, of the untruths and omissions contained or incorporated by reference in the Prospectus.

187. The value of the shares sold in the Offering declined substantially due to the violations of Section 12(a)(2) of the Securities Act by the Underwriter Defendants. Plaintiff and the other members of the Class who purchased stock in the Offering were thus damaged by the material misstatements and omissions in the Prospectus and the misconduct of the Underwriter Defendants.

188. Plaintiff and all members of the Class who purchased or otherwise acquired shares of STEC common stock in or pursuant to the Offering and who still hold such securities have the right to rescind and recover the consideration exchanged for those shares of STEC common stock, and hereby tender their shares of STEC common stock to their respective Underwriter Defendant sellers. Plaintiff and Class Members who have sold STEC common stock that they purchased or acquired pursuant to the Offering seek damages from their respective Underwriter Defendant sellers to the extent permitted by law.

189. By reason of the foregoing, each Underwriter Defendant is liable for violations of Section 12(a)(2) of the Securities Act to all members of the Class.

COUNT V

FOR VIOLATION OF SECTION 15 OF THE SECURITIES ACT (AGAINST THE OFFICER DEFENDANTS)

190. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

191. This Count is asserted against the Officer Defendants, and is predicated upon each of the Officer Defendants' liability for false and materially misleading statements and omissions contained in the Prospectus or Registration Statement issued in connection with the Offering.

192. At all relevant times alleged herein, each of the Officer Defendants was a controlling person of STEC within the meaning of Section 15 of the Securities Act. By reason of

1 each Officer Defendant's stock ownership, senior management, positions and/or directorships at
 2 the Company, as alleged above, these Defendants, individually and acting pursuant to a common
 3 plan, had the power to influence and exercised the same to cause STEC to engage in the unlawful
 4 acts and conduct complained of herein.

5 193. As set forth above, each Defendant violated Sections 11 and 12(a)(2) by such
 6 Defendant's acts and omissions as alleged in this Complaint. By virtue of their positions as
 7 controlling persons, each of the Officer Defendants is liable pursuant to Section 15 of the
 8 Securities Act. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and
 9 the Class suffered damages in connection with their acquisition of STEC common stock.

10 **X. PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for judgment as follows:

12 A. Determining that this action is a proper class action certifying Plaintiff as the
 13 class representative and Plaintiff's counsel as Class Counsel;

14 B. Awarding compensatory damages in favor of Plaintiff and the other Class
 15 members against all Defendants, jointly and severally, for all damages sustained as a result of
 16 Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

17 C. Awarding rescission or a rescissory measure of damages on all claims where such
 18 remedy or damages are applicable;

19 D. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in
 20 this action, including counsel fees and expert fees; and

21 E. Awarding such other and further relief as the Court may deem just and proper.
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1 **XI. JURY DEMAND**

2 Plaintiff demands a trial by jury.

3 Dated: July 1, 2011

Respectfully submitted,

4 BERNSTEIN LITOWITZ BERGER
5 & GROSSMANN LLP

6 By 
7 Blair A. Nicholas

8 Blair A. Nicholas (Bar No. 178428)
9 blairn@blbglaw.com
10 Niki L. Mendoza (Bar No. 214646)
11 nikim@blbglaw.com
12 Takeo A. Kellar (Bar No. 234470)
13 takeok@blbglaw.com
14 12481 High Bluff Drive, Suite 300
15 San Diego, CA 92130
16 Tel: (858) 793-0070
17 Fax: (858) 793-0323

18 *Counsel for Plaintiff West Virginia Laborers' Trust*
19 *Fund and the Class*
20
21
22
23
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26
27
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EXHIBIT 2

1 BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP

2 Blair A. Nicholas (Bar No. 178428)

3 blairn@blbglaw.com

4 Niki L. Mendoza (Bar No. 214646)

5 nikim@blbglaw.com

6 Takeo A. Kellar (Bar No. 234470)

7 takeok@blbglaw.com

8 12481 High Bluff Drive, Suite 300

9 San Diego, CA 92130

10 Tel: (858) 793-0070

11 Fax: (858) 793-0323

12 *Counsel for Plaintiff West Virginia Laborers'*
13 *Trust Fund and the Class*

14 SUPERIOR COURT OF CALIFORNIA

15 IN AND FOR THE COUNTY OF ORANGE

16 WEST VIRGINIA LABORERS' TRUST
17 FUND, Individually and on Behalf of All
18 Others Similarly Situated,

19 Plaintiff,

20 v.

21 STEC, INC., MANOUCH
22 MOSHAYEDI, MEHRDAD
23 MOSHAYEDI, RAYMOND D. COOK,
24 RAJAT BAHRI, BARCLAYS CAPITAL
25 INC., DEUTSCHE BANK
26 SECURITIES, INC., J.P. MORGAN
27 SECURITIES, INC., and
28 OPPENHEIMER & CO., INC.,

Defendants.

Case No. 30-2011-00489022-CU-SL-CXC

CLASS ACTION

**NOTICE OF MOTION AND MOTION FOR
PEREMPTORY CHALLENGE OF
ASSIGNED JUDGE**

[CALIFORNIA CODE OF CIVIL
PROCEDURE § 170.6]

Judge: Honorable Ronald L. Bauer
Dept.: CX103

1 **TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that Plaintiff West Virginia Laborers' Trust Fund,
3 individually and on behalf of the Class ("Plaintiff") hereby moves, pursuant to California Code
4 of Civil Procedure § 170.6, for an Order disqualifying the Honorable Ronald L. Bauer from
5 hearing any matter in the above-entitled action. This motion for peremptory disqualification is
6 based on this notice of motion and motion, the declaration of Blair A. Nicholas filed herewith,
7 and all other papers and pleadings on file in this action.

8 Dated: July 8, 2011

Respectfully submitted,

9 BERNSTEIN LITOWITZ BERGER
10 & GROSSMANN LLP

11 By 
12 _____

Blair A. Nicholas

13 Blair A. Nicholas (Bar No. 178428)
14 blairn@blbglaw.com
15 Niki L. Mendoza (Bar No. 214646)
16 nikim@blbglaw.com
17 Takeo A. Kellar (Bar No. 234470)
18 takeok@blbglaw.com
19 12481 High Bluff Drive, Suite 300
20 San Diego, CA 92130
21 Tel: (858) 793-0070
22 Fax: (858) 793-0323

23 *Counsel for Plaintiff West Virginia Laborers' Trust*
24 *Fund and the Class*

BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP

Blair A. Nicholas (Bar No. 178428)

blairn@blbglaw.com

Niki L. Mendoza (Bar No. 214646)

nikim@blbglaw.com

Takeo A. Kellar (Bar No. 234470)

takeok@blbglaw.com

12481 High Bluff Drive, Suite 300

San Diego, CA 92130

Tel: (858) 793-0070

Fax: (858) 793-0323

*Counsel for Plaintiff West Virginia Laborers'
Trust Fund and the Class*

SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF ORANGE

WEST VIRGINIA LABORERS' TRUST
FUND, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

v.

STEC, INC., MANOUCH
MOSHAYEDI, MEHRDAD
MOSHAYEDI, RAYMOND D. COOK,
RAJAT BAHRI, BARCLAYS CAPITAL
INC., DEUTSCHE BANK
SECURITIES, INC., J.P. MORGAN
SECURITIES, INC., and
OPPENHEIMER & CO., INC.,

Defendants.

Case No. 30-2011-00489022-CU-SL-CXC

CLASS ACTION

**DECLARATION OF BLAIR A. NICHOLAS
IN SUPPORT OF MOTION FOR
PEREMPTORY CHALLENGE OF
ASSIGNED JUDGE**

[CALIFORNIA CODE OF CIVIL
PROCEDURE § 170.6]

Judge: Honorable Ronald L. Bauer
Dept.: CX103

DECLARATION OF BLAIR NICHOLAS RE
MOTION FOR PEREMPTORY CHALLENGE
Case No. 30-2011-00489022-CU-SL-CXC

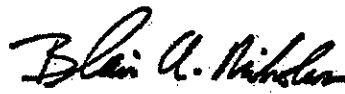
1 I, Blair A. Nicholas, declare as follows:

2 1. I am a partner duly licensed to practice before all of the courts of the State of California.
3 I am a partner with the law firm of Bernstein Litowitz Berger & Grossmann LLP, counsel of
4 record for plaintiff West Virginia Laborers' Trust Fund ("Plaintiff"). I have personal knowledge
5 of the matters stated herein and, if called upon, I could and would competently testify thereto. I
6 submit this declaration in support of Plaintiff's Motion for Peremptory Challenge of Assigned
7 Judge (the "Motion") pursuant to California Code of Civil Procedure § 170.6.

8 2. The above-entitled actin has been assigned to the Honorable Ronald L. Bauer. I am
9 informed and believe, and therefore allege, that Judge Bauer is prejudiced against Plaintiff and/or
10 its counsel or the interest of Plaintiff and/or its counsel. Therefore I believe that Plaintiff cannot
11 have a fair and impartial trial or hearing before Judge Bauer.

12 3. As such, pursuant to the provisions of § 170.6 of the California Code of Civil Procedure,
13 I respectfully request that an Order issue regarding the reassignment of the above captioned
14 matter, and any related actions, to another and different Judge for further proceedings.

15 I declare under penalty of perjury under the laws of the State of California that the foregoing
16 is true and correct. Executed this 8th day of July, 2011, at San Diego, California.

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18 

19 BLAIR A. NICHOLAS
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name & Address): Blair A. Nicholas, Esq. BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Ste., 300, San Diego, CA 92130 Telephone No.: (858) 793-0070 Fax No. (Optional): (858) 793-0323 E-Mail Address (Optional): BlairN@blbglaw.com ATTORNEY FOR (Name): Plaintiff and the Class Bar No: 178428	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE Civil Complex Center - 751 W. Santa Ana Blvd., Bldg. 36, Santa Ana, CA 92701-4512	
PLAINTIFF / PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT / RESPONDENT: STEC, Inc., et al.	
CLASS ACTION/B&P 17200 QUESTIONNAIRE <u>(To be filed by counsel for plaintiff/s within 30 days of filing initial complaint)</u>	CASE NUMBER: 30-2011-00489022 DEPT: CX103 JUDGE: Ronald L. Bauer STATUS CONFERENCE DATE: None Set

In response to the conflict of interest issues raised in **Apple Computer, Inc. v. The Superior Court of Los Angeles County** (2005) 126 Cal. App. 4th 1253, counsel for each proposed class representative is to provide the following information under oath to the Court:

1. Is any proposed class representative an attorney? Yes _____ No ✓
2. Is any proposed class representative a spouse, child or family member of plaintiff's counsel or of a partner or associate of the law firm of which plaintiff's counsel is a member? Yes _____ No ✓

If yes, explain relationship: _____

3. Within the last 5 years, has any proposed class representative filed prior class action lawsuits using the same plaintiff's counsel or firm as in the present case? Yes _____ No ✓

If yes, explain: _____

4. Does any proposed class representative have a business relationship with plaintiff's counsel, including but not limited to, the relationship of law partner, associate, employee, principal, agent, independent contractor, or professional corporation? Yes _____ No ✓

If yes, explain relationship: _____

5. If there is co-counsel, have the attorneys been co-counsel in other class actions? Yes _____ No ✓

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

July 7, 2011
DATE


SIGNATURE OF COUNSEL FOR PLAINTIFF(S)

CLASS ACTION/B&P 17200 QUESTIONNAIRE

SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

WEST VIRGINIA LABORERS' TRUST
FUND, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

v.

STEC, INC., MANOUCH
MOSHAYEDI, MEHRDAD
MOSHAYEDI, RAYMOND D. COOK,
RAJAT BAHRI, BARCLAYS CAPITAL
INC., DEUTSCHE BANK
SECURITIES, INC., J.P. MORGAN
SECURITIES, INC., and
OPPENHEIMER & CO., INC.,

Defendants.

Case No. 30-2011-00489022-CU-SL-CXC

CLASS ACTION

**[PROPOSED] ORDER GRANTING MOTION
FOR PEREMPTORY CHALLENGE OF
ASSIGNED JUDGE**

[CALIFORNIA CODE OF CIVIL
PROCEDURE § 170.6]

Judge: Honorable Ronald L. Bauer
Dept.: CX103

**[PROPOSED] ORDER GRANTING PEREMPTORY
CHALLENGE OF ASSIGNED JUDGE**
Case No. 30-2011-00489022-CU-SL-CXC

1 Plaintiff West Virginia Laborers' Trust Fund Motion for Peremptory Challenge of
2 Assigned Judge (the "Motion"), having been timely filed pursuant to California Code of Civil
3 Procedure § 170.6, came on regularly before the Court, and the Court, having considered the
4 Motion together with all papers on file herein, hereby Orders as follows:

- 5 1. Plaintiff's Motion is GRANTED; and
- 6 2. This case is referred to the Supervising Judge of this Court for reassignment.

7
8 IT IS SO ORDERED.

9
10
11 DATED: _____

JUDGE OF THE SUPERIOR COURT

12
13 Submitted by:

14 BERNSTEIN LITOWITZ BERGER
15 & GROSSMANN LLP

16 Blair A. Nicholas (Bar No. 178428)
blairn@blbglaw.com

17 Niki L. Mendoza (Bar No. 214646)
nikim@blbglaw.com

18 Takeo A. Kellar (Bar No. 234470)
takeok@blbglaw.com

19 12481 High Bluff Drive, Suite 300
20 San Diego, CA 92130

21 Tel: (858) 793-0070

22 Fax: (858) 793-0323

23 *Counsel for Plaintiff West Virginia
24 Laborers' Trust Fund and the Class*

25
26
27
28 [PROPOSED] ORDER GRANTING PEREMPTORY
CHALLENGE OF ASSIGNED JUDGE
Case No. 30-2011-00489022-CU-SL-CXC

1 BERNSTEIN LITOWITZ BERGER
2 & GROSSMANN LLP
3 Blair A. Nicholas (Bar No. 178428)
4 blairn@blbglaw.com
5 Niki L. Mendoza (Bar No. 214646)
6 nikim@blbglaw.com
7 Takeo A. Kellar (Bar No. 234470)
8 takeok@blbglaw.com
9 12481 High Bluff Drive, Suite 300
10 San Diego, CA 92130
11 Tel: (858) 793-0070
12 Fax: (858) 793-0323

13 *Counsel for Plaintiff West Virginia*
14 *Laborers' Trust Fund and the Class*

15
16 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

17 IN AND FOR THE COUNTY OF ORANGE

18 WEST VIRGINIA LABORERS' TRUST
19 FUND, Individually and on Behalf of All
20 Others Similarly Situated,

21 Plaintiff,

22 v.

23 STEC, INC., MANOUCH MOSHAYEDI,
24 MEHRDAD MOSHAYEDI, RAYMOND D.
25 COOK, RAJAT BAHRI, BARCLAYS
26 CAPITAL INC., DEUTSCHE BANK
27 SECURITIES, INC., J.P. MORGAN
28 SECURITIES, INC., and OPPENHEIMER &
CO., INC.,

Defendants.

Case No. 30-2011-00489022-CU-SL-CXC

CLASS ACTION

DECLARATION OF SERVICE

Judge: Honorable Ronald L. Bauer
Dept.: CX103

1 I, DENA L. BIELASZ declare,

2 1. That I am and was, at all times herein mentioned, a citizen of the United States
3 and a resident of the County of San Diego, over the age of 18 years, and not a party to or
4 interested in the within action; that my business address is 12481 High Bluff Drive, Suite 300,
5 San Diego, CA 92130.

6 2. That on July 8, 2011, I caused to be served the following document(s):

- 7 • NOTICE OF MOTION AND MOTION FOR PEREMPTORY CHALLENGE OF
8 ASSIGNED JUDGE;
- 9 • DECLARATION OF BLAIR A. NICHOLAS IN SUPPORT OF MOTION FOR
10 PEREMPTORY CHALLENGE OF ASSIGNED JUDGE;
- 11 • [PROPOSED] ORDER GRANTING MOTION FOR PEREMPTORY CHALLENGE
12 OF ASSIGNED JUDGE;
- 13 • CLASS ACTION/B&P 17200 QUESTIONNAIRE; and
- 14 • DECLARATION OF SERVICE

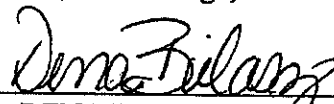
15 to counsel of record on the attached Service List as follows:

16 ☐ (BY U.S. MAIL) I am personally and readily familiar with the business practice
17 of Bernstein Litowitz Berger & Grossmann LLP for collecting and processing of
18 correspondence for mailing with the United States Postal Service, and I caused
19 such envelope(s) with postage thereon fully prepaid to be placed in the United
20 States Postal Service at San Diego, California.

21 ☒ (BY OVERNIGHT MAIL) I am personally and readily familiar with the
22 business practice of Bernstein Litowitz Berger & Grossmann LLP for collection
23 and processing of correspondence for overnight delivery, and I caused such
24 document(s) described herein to be deposited for delivery to a facility regularly
25 maintained by Federal Express for overnight delivery.

26 ☐ (BY FACSIMILE) I am personally and readily familiar with the business
27 practice of Bernstein Litowitz Berger & Grossmann LLP for collection and
28 processing of document(s) to be transmitted by facsimile and I caused such
document(s) on this date to be transmitted by facsimile to the offices of
addressee(s) at the numbers listed below.

I declare under penalty of perjury under the laws of State of CALIFORNIA that the
foregoing is true and correct. Executed this 8th day of July, 2011, at San Diego, California.


DENA L. BIELASZ, CP
Certified Paralegal

SERVICE LIST

Patrick E. Gibbs
Latham & Watkins LLP
 140 Scott Drive
 Menlo Park, CA 94025
 Tel: (650) 463-4696
 Patrick.gibbs@lw.com

John D. Pernick
Bingham McCutchen
 3 Embarcadero Center, Suite 1800
 San Francisco, CA 94111
 Tel: (415) 393-2000
 john.pernick@bingham.com

*Counsel for Defendants STEC, Inc.,
 Manouch Moshayedi, Mehrdad Moshayedi,
 Raymond D. Cook and Rajat Bahri*

*Counsel for Defendants Barclays Capital Inc.,
 Deutsche Bank Securities, Inc., J.P. Morgan
 Securities, Inc. and Oppenheimer & Co., Inc.*

DECLARATION OF SERVICE

Case No. 30-2011-00489022-CU-SL-CXC

-2-

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER

DATE: 07/13/2011

TIME: 12:48:00 PM DEPT: C32

JUDICIAL OFFICER PRESIDING: Supervising Judge Steven L. Perk

CLERK: Nga Quach

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: None

CASE NO: **30-2011-00489022-CU-SL-CXC** CASE INIT.DATE: 07/01/2011

CASE TITLE: **West Virginia Laborers' Trust Fund vs. STEC, Inc.**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Securities Litigation

EVENT ID/DOCUMENT ID: 71274203

EVENT TYPE: Chambers Work

APPEARANCES

There are no appearances by any party.

A Peremptory Challenge under C.C.P. 170.6 as to the Honorable Ronald L. Bauer having been filed on 07/08/2011, by plaintiff, and this matter having been transferred to C32 for reassignment, the Court now rules as follows:

This case is reassigned to the Honorable Gail A. Andler in Department CX101 for all purposes.

The Court determines that for purposes of exercising C.C.P. 170.6 rights, there are two sides to this matter unless the contrary is brought to the attention of the Court, by Ex-Parte motion. Counsel have 15 days from the date of the enclosed certificate of mailing in which to exercise any rights under C.C.P. 170.6.

Clerk to give notice by email to plaintiff and plaintiff to give notice to all other parties.

Blair A. Nicholas of Bernstein Litowitz Berger & Grossman, LLP, blairn@blbglaw.com

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbgllaw.com ATTORNEY FOR (Name): Plaintiff W. Virginia Laborers' Trust Fund</p>	<p>POS-015</p> <p>FOR COURT USE ONLY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center</p>	
<p>PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund</p> <p>DEFENDANT/RESPONDENT: STEC, Inc., et al.</p>	
<p>NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL</p>	<p>CASE NUMBER: 30-2011-00489022-CU-SL_CXC</p>

TO (insert name of party being served): Rajat Bahri

NOTICE

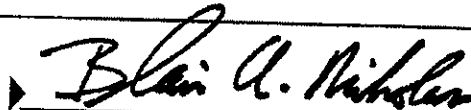
The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: July 7, 2011

Blair A. Nicholas

(TYPE OR PRINT NAME)



(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

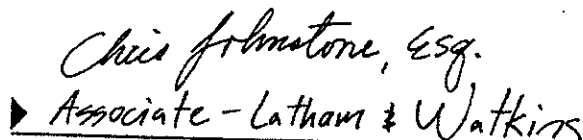
1. ☒ A copy of the summons and of the complaint.
2. ☒ Other (specify): Civil Case Cover Sheet; Alternative Dispute Resolution (ADR) Information Package

(To be completed by recipient):

Date this form is signed: 7/21/11

Rajat Bahri

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,
ON WHOSE BEHALF THIS FORM IS SIGNED)



(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbglaw.com ATTORNEY FOR (Name): Plaintiff W. Virginia Laborers' Trust Fund</p>	<p>POS-015</p> <p>FOR COURT USE ONLY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center</p>	
<p>PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund</p> <p>DEFENDANT/RESPONDENT: STEC, Inc., et al.</p>	
<p>NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL</p>	<p>CASE NUMBER: 30-2011-00489022-CU-SL-CXC</p>

TO (insert name of party being served): Raymond D. Cook

NOTICE

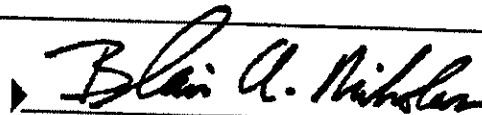
The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: July 7, 2011

Blair A. Nicholas

(TYPE OR PRINT NAME)



(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

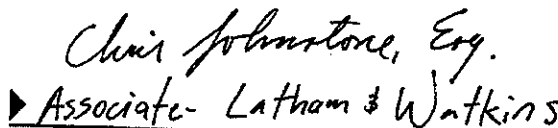
1. ☒ A copy of the summons and of the complaint.
2. ☒ Other (specify): Civil Cover Sheet; Alternative Dispute Resolution (ADR) Information Package

(To be completed by recipient):

Date this form is signed: 7/21/11

Raymond D. Cook

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,
ON WHOSE BEHALF THIS FORM IS SIGNED)



(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbglaw.com ATTORNEY FOR (Name): Plaintiff W. Virginia Laborers' Trust Fund</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center</p> <p>PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund</p> <p>DEFENDANT/RESPONDENT: STEC, Inc., et al.</p>	<p>POS-015</p> <p>FOR COURT USE ONLY</p>
<p>NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL</p>	<p>CASE NUMBER: 30-2011-00489022-CU-SL-CXC</p>

TO (insert name of party being served): Mehrdad Moshavedi

NOTICE

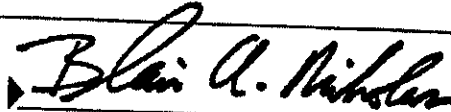
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If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: July 7, 2011

Blair A. Nicholas

(TYPE OR PRINT NAME)



(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

1. ☒ A copy of the summons and of the complaint.
2. ☒ Other (specify): Civil Case Cover Sheet; Alternate Dispute Resolution (ADR) Information Package

(To be completed by recipient):

Date this form is signed: 7/21/11

Mehrdad Moshavedi

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,
ON WHOSE BEHALF THIS FORM IS SIGNED)



(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbglaw.com ATTORNEY FOR (Name): Plaintiff W. Virginia Laborers' Trust Fund</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center</p> <p>PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund</p> <p>DEFENDANT/RESPONDENT: STEC, Inc., et al.</p>	<p>POS-015</p> <p>FOR COURT USE ONLY</p>
<p>NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL</p>	
<p>CASE NUMBER: 30-2011-00489022-CU-SL-CXC</p>	

TO (insert name of party being served): Manouch Moshavedi

NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: July 7, 2011

Blair A. Nicholas

(TYPE OR PRINT NAME)

Blair A. Nicholas

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

1. ☒ A copy of the summons and of the complaint.
2. ☒ Other (specify): Civil Case Cover Sheet; Alternative Dispute Resolution (ADR) Information Package

(To be completed by recipient):

Date this form is signed: 7/21/11

Manouch Moshavedi

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,
ON WHOSE BEHALF THIS FORM IS SIGNED)

Chris Johnstone, Esq.
Associate - Latham & Watkins

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbgllaw.com ATTORNEY FOR (Name): Plaintiff W. Virginia Laborers' Trust Fund</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center</p> <p>PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund</p> <p>DEFENDANT/RESPONDENT: STEC, Inc., et al.</p>	<p>POS-015</p> <p><small>FOR COURT USE ONLY</small></p>
<p>NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL</p>	<p>CASE NUMBER: 30-2011-00489022-CU-SL-CXC</p>

TO (insert name of party being served): STEC, Inc.

<p style="text-align: center;">NOTICE</p> <p>The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.</p> <p>If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.</p>

Date of mailing: July 7, 2011

Blair A. Nicholas

(TYPE OR PRINT NAME)

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

1. ☒ A copy of the summons and of the complaint.
2. ☒ Other (specify): Civil Case Cover Sheet; Alternative Dispute Resolution (ADR) Information Package

(To be completed by recipient):

Date this form is signed: 7/21/11

STEC, Inc.

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,
ON WHOSE BEHALF THIS FORM IS SIGNED)

Chair Johnstone, Esq.
Associate - Latham & Watkins

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

1 BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP

2 Blair A. Nicholas (Bar No. 178428)

3 blairn@blbglaw.com

Niki L. Mendoza (Bar No. 214646)

4 nikim@blbglaw.com

Takeo A. Kellar (Bar No. 234470)

5 takeok@blbglaw.com

12481 High Bluff Drive, Suite 300

6 San Diego, CA 92130

7 Tel: (858) 793-0070

8 Fax: (858) 793-0323

9 *Counsel for Plaintiff West Virginia Laborers'*
Trust Fund and the Class

10
11 SUPERIOR COURT OF CALIFORNIA

12 IN AND FOR THE COUNTY OF ORANGE

13 WEST VIRGINIA LABORERS' TRUST
14 FUND, Individually and on Behalf of All
Others Similarly Situated,

15 Plaintiff,

16 v.

17 STEC, INC., MANOUCH
18 MOSHAYEDI, MEHRDAD
19 MOSHAYEDI, RAYMOND D. COOK,
20 RAJAT BAHRI, BARCLAYS CAPITAL
INC., DEUTSCHE BANK
SECURITIES, INC., J.P. MORGAN
SECURITIES, INC., and
21 OPPENHEIMER & CO., INC.,

22 Defendants.

Case No. 30-2011-00489022-CU-SL-CXC

CLASS ACTION

**NOTICE OF ENTRY OF MINUTE ORDER
REASSIGNING CASE**

DEMAND FOR JURY TRIAL

Judge: Honorable Gail A. Andler
Dept.: CX101

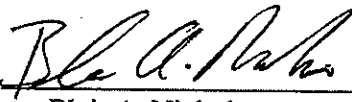
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NOTICE OF ENTRY OF MINUTE
ORDER REASSIGNING CASE
Case No. 30-2011-00489022-CU-SL-CXC

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that attached hereto as Exhibit A is a true and correct copy of
3 the Minute Order entered by the Court on July 13, 2011, reassigning this case to the Honorable
4 Gail A. Andler in Department CX101 for all purposes.

5 Dated: July 13, 2011

6 BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP

7
8 By 
9 Blair A. Nicholas

10 Blair A. Nicholas (Bar No. 178428)
blairn@blbglaw.com
11 Niki L. Mendoza (Bar No. 214646)
nikim@blbglaw.com
12 Takeo A. Kellar (Bar No. 234470)
takeok@blbglaw.com
13 12481 High Bluff Drive, Suite 300
14 San Diego, CA 92130
15 Tel: (858) 793-0070
16 Fax: (858) 793-0323

17 *Counsel for Plaintiff West Virginia Laborers' Trust*
18 *Fund and the Class*
19
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NOTICE OF ENTRY OF MINUTE
ORDER REASSIGNING CASE

-1- Case No. 30-2011-00489022-CU-SL-CXC

EXHIBIT A

NOTICE OF ENTRY OF MINUTE
ORDER REASSIGNING CASE

Case No. 30-2011-00489022-CU-SL-CXC

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER

DATE: 07/13/2011

TIME: 12:48:00 PM

DEPT: C32

JUDICIAL OFFICER PRESIDING: Supervising Judge Steven L. Perk

CLERK: Nga Quach

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: None

CASE NO: **30-2011-00489022-CU-SL-CXC** CASE INIT.DATE: 07/01/2011

CASE TITLE: **West Virginia Laborers' Trust Fund vs. STEC, Inc.**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Securities Litigation

EVENT ID/DOCUMENT ID: 71274203

EVENT TYPE: Chambers Work

APPEARANCES

There are no appearances by any party.

A Peremptory Challenge under C.C.P. 170.6 as to the Honorable Ronald L. Bauer having been filed on 07/08/2011, by plaintiff, and this matter having been transferred to C32 for reassignment, the Court now rules as follows:

This case is reassigned to the Honorable Gail A. Andler in Department CX101 for all purposes.

The Court determines that for purposes of exercising C.C.P. 170.6 rights, there are two sides to this matter unless the contrary is brought to the attention of the Court, by Ex-Parte motion. Counsel have 15 days from the date of the enclosed certificate of mailing in which to exercise any rights under C.C.P. 170.6.

Clerk to give notice by email to plaintiff and plaintiff to give notice to all other parties.

Blair A. Nicholas of Bernstein Litowitz Berger & Grossman, LLP, blairn@blbglaw.com

DATE: 07/13/2011

MINUTE ORDER

DEPT: C32

Page 1
Calendar No.

Exhibit 2
74

1 BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP
2 Blair A. Nicholas (Bar No. 178428)
blairn@blbglaw.com
3 Niki L. Mendoza (Bar No. 214646)
nikim@blbglaw.com
4 Joseph W. Goodman (Bar No. 230161)
Joseph.goodman@blbglaw.com
5 Paul M. Jonna (Bar No. 265389)
paulj@blbglaw.com
6 12481 High Bluff Drive, Suite 300
San Diego, CA 92130
7 Tel: (858) 793-0070
Fax: (858) 793-0323
8

9 *Counsel for Plaintiff West Virginia*
10 *Laborers' Trust Fund and the Class*

11 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

12 IN AND FOR THE COUNTY OF ORANGE

13 WEST VIRGINIA LABORERS' TRUST
14 FUND, Individually and on Behalf of All
Others Similarly Situated,

15 Plaintiff,

16 v.

17 STEC, INC., MANOUCH MOSHAYEDI,
18 MEHRDAD MOSHAYEDI, RAYMOND D.
19 COOK, RAJAT BAHRI, BARCLAYS
20 CAPITAL INC., DEUTSCHE BANK
SECURITIES, INC., J.P. MORGAN
21 SECURITIES, INC., and OPPENHEIMER &
CO., INC.,

22 Defendants.
23
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Case No. 30-2011-00489022-CU-SL-CXC

CLASS ACTION

DECLARATION OF SERVICE

Judge: Honorable Gail A. Andler
Dept.: CX101

1 I, DENA L. BIELASZ declare,

2 1. That I am and was, at all times herein mentioned, a citizen of the United States
3 and a resident of the County of San Diego, over the age of 18 years, and not a party to or
4 interested in the within action; that my business address is 12481 High Bluff Drive, Suite 300,
5 San Diego, CA 92130.

6 2. That on August 2, 2011, I caused to be served the following document(s):

- 7 • NOTICE OF ACKNOWLEDGMENT AND RECEIPT FOR DEFENDANT STEC,
8 INC.;
- 9 • NOTICE OF ACKNOWLEDGMENT AND RECEIPT FOR DEFENDANT
10 MANOUCH MOSHAYEDI;
- 11 • NOTICE OF ACKNOWLEDGMENT AND RECEIPT FOR DEFENDANT
12 MEHRDAD MOSHAYEDI;
- 13 • NOTICE OF ACKNOWLEDGMENT AND RECEIPT FOR DEFENDANT
14 RAYMOND D. COOK;
- 15 • NOTICE OF ACKNOWLEDGMENT AND RECEIPT FOR DEFENDANT RAJAT
16 BEHRI;
- 17 • NOTICE OF ACKNOWLEDGMENT AND RECEIPT FOR DEFENDANT
18 BARCLAYS CAPITAL INC.;
- 19 • NOTICE OF ACKNOWLEDGEMENT AND RECEIPT FOR DEFENDANT
20 DEUTSCHE BANK SECURITIES, INC.;
- 21 • NOTICE OF ACKNOWLEDGMENT AND RECEIPT FOR DEFENDANT J.P.
22 MORGAN SECURITIES, INC.;
- 23 • NOTICE OF ACKNOWLEDGMENT AND RECEIPT FOR DEFENDANT
24 OPPENHEIMER & CO., INC.; and
- 25 • DECLARATION OF SERVICE

26 to counsel of record on the attached Service List as follows:

27 ☒ **(BY U.S. MAIL)** I am personally and readily familiar with the business practice
28 of Bernstein Litowitz Berger & Grossmann LLP for collecting and processing of
correspondence for mailing with the United States Postal Service, and I caused
such envelope(s) with postage thereon fully prepaid to be placed in the United
States Postal Service at San Diego, California.

☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the
business practice of Bernstein Litowitz Berger & Grossmann LLP for collection
and processing of correspondence for overnight delivery, and I caused such
document(s) described herein to be deposited for delivery to a facility regularly
maintained by Federal Express for overnight delivery.

☐ **(BY FACSIMILE)** I am personally and readily familiar with the business
practice of Bernstein Litowitz Berger & Grossmann LLP for collection and
processing of document(s) to be transmitted by facsimile and I caused such

1 document(s) on this date to be transmitted by facsimile to the offices of
2 addressee(s) at the numbers listed below.

3 I declare under penalty of perjury under the laws of State of CALIFORNIA that the
4 foregoing is true and correct. Executed this 2nd day of August, 2011, at San Diego, California.

5 
6 DENA L. BIELASZ, CP
7 Certified Paralegal
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SERVICE LIST

Patrick E. Gibbs
Latham & Watkins LLP
 140 Scott Drive
 Menlo Park, CA 94025
 Tel: (650) 463-4696
 Patrick.gibbs@lw.com

John D. Pernick
Bingham McCutchen
 3 Embarcadero Center, Suite 1800
 San Francisco, CA 94111
 Tel: (415) 393-2000
 john.pernick@bingham.com

Christopher W. Johnstone
Latham & Watkins LLP
 505 Montgomery Street, Suite 2000
 San Francisco, CA 94111
 Tel: (415) 391-0600
 Chris.johnstone@lw.com

*Counsel for Defendants Barclays Capital Inc.,
 Deutsche Bank Securities, Inc., J.P. Morgan
 Securities, Inc. and Oppenheimer & Co., Inc.*

*Counsel for Defendants STEC, Inc.,
 Manouch Moshayedi, Mehrdad Moshayedi,
 Raymond D. Cook and Rajat Bahri*

PROOF OF SERVICE OF SUMMONS

PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund	CASE NUMBER: 30-2011-00489022-CU-SL-CXC
DEFENDANT/RESPONDENT: STEC, Inc., et al.	

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): July 7, 2011 (2) from (city): San Diego
- (3) ☒ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgment of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☒ by other means (specify means of service and authorizing code section): by overnight delivery and confirmation of receipt of service. I overnighted the documents listed in item 2 to the party, to the address listed in item 4, by FedEx, pre-paid (Code Civ. Proc., Section 1013(c)).

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): STEC, Inc.

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: Dena L. Bielasz
- b. Address: 12481 High Bluff Drive, Suite 300, San Diego, CA 92130
- c. Telephone number: (858) 793-0070
- d. The fee for service was: \$ N/A
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☒ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: August 2, 2011

Dena L. Bielasz
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbglaw.com ATTORNEY FOR (Name): Plaintiff W. Virginia Laborers' Trust Fund	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center	
PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL	CASE NUMBER: 30-2011-00489022-CU-SL-CXC

TO (insert name of party being served): STEC, Inc.

NOTICE

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If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: July 7, 2011

Blair A. Nicholas

(TYPE OR PRINT NAME)

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

- ☒ A copy of the summons and of the complaint.
- ☒ Other (specify): Civil Case Cover Sheet; Alternative Dispute Resolution (ADR) Information Package

(To be completed by recipient):

Date this form is signed: 7/21/11STEC, Inc.

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbglaw.com ATTORNEY FOR (Name): Plaintiff West Virginia Laborers' Trust Fund		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center		
PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.		
PROOF OF SERVICE OF SUMMONS		CASE NUMBER: 30-2011-00489022-CU-SL-CXC Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. ☒ summons
 - b. ☒ complaint
 - c. ☒ Alternative Dispute Resolution (ADR) package
 - d. ☒ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ cross-complaint
 - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):
Manouch Moshayedi, care of Counsel, Chris Johnstone, Esq.
 b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
4. Address where the party was served: **Latham & Watkins, 505 Montgomery Street, Suite 2000, San Francisco, CA 94111**
5. I served the party (check proper box)
 - a. ☐ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): _____ (2) at (time): _____
 - b. ☐ **by substituted service.** On (date): _____ at (time): _____ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3): _____
 - (1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): _____ from (city): _____ or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund	CASE NUMBER: 30-2011-00489022-CU-SL-CXC
DEFENDANT/RESPONDENT: STEC, Inc., et al.	

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): July 7, 2011 (2) from (city): San Diego
- (3) ☒ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☒ by other means (specify means of service and authorizing code section): by overnight delivery and confirmation of receipt of service. I overnighted the documents listed in item 2 to the party, to the address shown in item 4, by FedEx, pre-paid, (Code Civ. Proc., Section 1013(c)).

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☒ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☐ On behalf of (specify):

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: Dena L. Bielasz
- b. Address: 12481 High Bluff Drive, Suite 300, San Diego, CA 92130
- c. Telephone number: (858) 793-0070
- d. The fee for service was: \$ N/A
- e. I am:

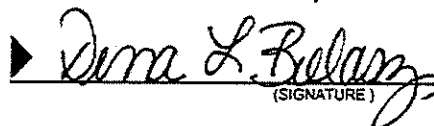
- (1) ☐ not a registered California process server.
- (2) ☒ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: August 2, 2011

Dena L. Bielasz
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

► 
(SIGNATURE)

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbgclaw.com ATTORNEY FOR (Name): Plaintiff W. Virginia Laborers' Trust Fund	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center	
PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL	CASE NUMBER: 30-2011-00489022-CU-SL-CXC

TO (insert name of party being served): Manouch Moshayed

NOTICE

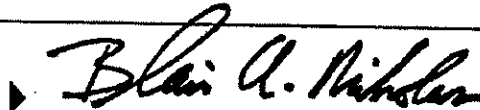
The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: July 7, 2011

Blair A. Nicholas

(TYPE OR PRINT NAME)



(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

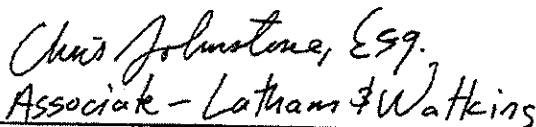
This acknowledges receipt of (to be completed by sender before mailing):

1. ☒ A copy of the summons and of the complaint.
2. ☒ Other (specify): Civil Case Cover Sheet; Alternative Dispute Resolution (ADR) Information Package

(To be completed by recipient):

Date this form is signed: 7/21/11Manouch Moshayed

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)



(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbglaw.com ATTORNEY FOR (Name): Plaintiff West Virginia Laborers' Trust Fund		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center		
PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.		CASE NUMBER: 30-2011-00489022-CU-SL-CXC
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. ☒ summons
 - b. ☒ complaint
 - c. ☒ Alternative Dispute Resolution (ADR) package
 - d. ☒ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ cross-complaint
 - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):
Mehrdad Moshayedi, care of Counsel, Chris Johnstone, Esq.
 - b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
4. Address where the party was served: **Latham & Watkins, 505 Montgomery Street, Suite 2000, San Francisco, CA 94111**
5. I served the party (check proper box)
 - a. ☐ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): _____ (2) at (time): _____
 - b. ☐ **by substituted service.** On (date): _____ at (time): _____ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3): _____
 - (1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): _____ from (city): _____ or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund	CASE NUMBER: 30-2011-00489022-CU-SL-CXC
DEFENDANT/RESPONDENT: STEC, Inc., et al.	

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): July 7, 2011 (2) from (city): San Diego
- (3) ☒ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☒ by other means (specify means of service and authorizing code section): by overnight delivery and confirmation of receipt of service. I overnighted the documents listed in item 2 to the party, to the address shown in item 4, by FedEx, pre-paid, (Code Civ. Proc., Section 1013(c)).

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☒ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☐ On behalf of (specify):

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: Dena L. Bielasz
- b. Address: 12481 High Bluff Drive, Suite 300, San Diego, CA 92130
- c. Telephone number: (858) 793-0070
- d. The fee for service was: \$ N/A
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☒ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: August 2, 2011

Dena L. Bielasz
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbglaw.com ATTORNEY FOR (Name): Plaintiff W. Virginia Laborers' Trust Fund	FOR COURT USE ONLY
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PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL	CASE NUMBER: 30-2011-00489022-CU-SL-CXC

TO (insert name of party being served): Mehrdad Moshavedi

NOTICE

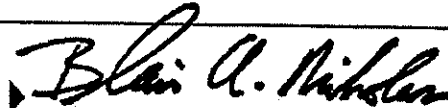
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Date of mailing: July 7, 2011

Blair A. Nicholas

(TYPE OR PRINT NAME)



(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

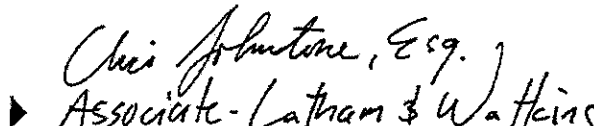
This acknowledges receipt of (to be completed by sender before mailing):

1. ☒ A copy of the summons and of the complaint.
2. ☒ Other (specify): Civil Case Cover Sheet; Alternate Dispute Resolution (ADR) Information Package

(To be completed by recipient):

Date this form is signed: 7/21/11Mehrdad Moshavedi

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)



(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbgllaw.com ATTORNEY FOR (Name): Plaintiff West Virginia Laborers' Trust Fund		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center		
PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.		CASE NUMBER: 30-2011-00489022-CU-SL-CXC
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. ☒ summons
 - b. ☒ complaint
 - c. ☒ Alternative Dispute Resolution (ADR) package
 - d. ☒ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ cross-complaint
 - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):
Raymond D. Cook, care of Counsel, Chris Johnstone, Esq.
 b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
4. Address where the party was served: **Latham & Watkins, 505 Montgomery Street, Suite 2000, San Francisco, CA 94111**
5. I served the party (check proper box)
 - a. ☐ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): (2) at (time):
 - b. ☐ by substituted service. On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 - (1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
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 - (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund	CASE NUMBER: 30-2011-00489022-CU-SL-CXC
DEFENDANT/RESPONDENT: STEC, Inc., et al.	

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): July 7, 2011 (2) from (city): San Diego
- (3) ☒ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
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☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☒ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☐ On behalf of (specify):

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: Dena L. Bielasz
- b. Address: 12481 High Bluff Drive, Suite 300, San Diego, CA 92130
- c. Telephone number: (858) 793-0070
- d. The fee for service was: \$ N/A
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☒ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

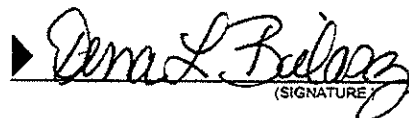
or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: August 2, 2011

Dena L. Bielasz

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbglaw.com ATTORNEY FOR (Name): Plaintiff W. Virginia Laborers' Trust Fund	FOR COURT USE ONLY
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PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL	CASE NUMBER: 30-2011-00489022-CU-SL-CXC

TO (insert name of party being served): Raymond D. Cook

NOTICE

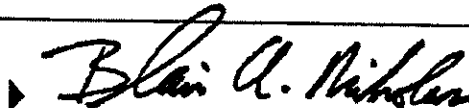
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Date of mailing: July 7, 2011

Blair A. Nicholas

(TYPE OR PRINT NAME)



(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

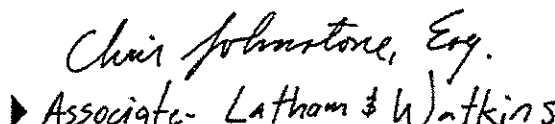
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2. ☒ Other (specify): Civil Cover Sheet; Alternative Dispute Resolution (ADR) Information Package

(To be completed by recipient):

Date this form is signed: 7/21/11Raymond D. Cook

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)



(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

PROOF OF SERVICE OF SUMMONS

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of:

- a. ☒ summons
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- f. ☐ other (specify documents):

3. a. Party served (specify name of party as shown on documents served):
Rajat Bahri, care of Counsel, Chris Johnstone, Esq.

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- (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund	CASE NUMBER: 30-2011-00489022-CU-SL-CXC
DEFENDANT/RESPONDENT: STEC, Inc., et al.	

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
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- | | |
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| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
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7. Person who served papers

- a. Name: Dena L. Bielasz
- b. Address: 12481 High Bluff Drive, Suite 300, San Diego, CA 92130
- c. Telephone number: (858) 793-0070
- d. The fee for service was: \$ N/A
- e. I am:

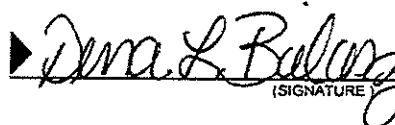
- (1) ☐ not a registered California process server.
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- (3) ☐ registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: August 2, 2011

Dena L. Bielasz
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

POS-015

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center	
PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL	CASE NUMBER: 30-2011-00489022-CU-SL_CXC

TO (insert name of party being served): Rajat Bahri

NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: July 7, 2011

Blair A. Nicholas

(TYPE OR PRINT NAME)

Blair A. Nicholas

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

- ☒ A copy of the summons and of the complaint.
- ☒ Other (specify): Civil Case Cover Sheet; Alternative Dispute Resolution (ADR) Information Package

(To be completed by recipient):

Date this form is signed: 7/21/11Rajat Bahri

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)

Chris J. Latham, Esq.Associate - Latham & Watkins

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbgllaw.com ATTORNEY FOR (Name): Plaintiff West Virginia Laborers' Trust Fund		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center		
PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.		CASE NUMBER: 30-2011-00489022-CU-SL-CXC
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. ☒ summons
 - b. ☒ complaint
 - c. ☒ Alternative Dispute Resolution (ADR) package
 - d. ☒ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ cross-complaint
 - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):
Barclays Capital Inc., care of Counsel, John Pernick, Esq.
 b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
4. Address where the party was served: **Bingham McCutchen, 3 Embarcadero Center, Suite 1800, San Francisco, CA 94111**
5. I served the party (check proper box)
 - a. ☐ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): _____ (2) at (time): _____
 - b. ☐ **by substituted service.** On (date): _____ at (time): _____ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3): _____
 - (1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): _____ from (city): _____ or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund	CASE NUMBER: 30-2011-00489022-CU-SL-CXC
DEFENDANT/RESPONDENT: STEC, Inc., et al.	

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): July 8, 2011 (2) from (city): San Diego
- (3) ☒ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☒ by other means (specify means of service and authorizing code section): by overnight delivery and confirmation of receipt of service. I overnighted the documents listed in item 2 to the party, to the address shown in item 4, by FedEx, pre-paid, (Code Civ. Proc., Section 1013(c).)

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): Barclays Capital Inc.

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: Dena L. Bielasz
- b. Address: 12481 High Bluff Drive, Suite 300, San Diego, CA 92130
- c. Telephone number: (858) 793-0070
- d. The fee for service was: \$ N/A
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☒ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

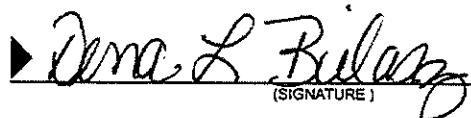
8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: August 2, 2011

Dena L. Bielasz

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbglaw.com ATTORNEY FOR (Name): Plaintiff W. Virginia Laborers' Trust Fund	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center	
PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL	CASE NUMBER: 30-2011-00489022-CU-SL-CXC

TO (insert name of party being served): Barclays Capital Inc.

NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: July 8, 2011

Blair A. Nicholas

(TYPE OR PRINT NAME)

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

- ☒ A copy of the summons and of the complaint.
- ☒ Other (specify): Civil Case Cover Sheet; Alternative Dispute Resolution (ADR) Information Package

(To be completed by recipient):

Date this form is signed: 7/13/11John Patrick Connel for Barclays

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbgllaw.com ATTORNEY FOR (Name): Plaintiff West Virginia Laborers' Trust Fund		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 West Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center		
PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.		CASE NUMBER: 30-2011-00489022-CU-SL-CXC
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. ☒ summons
 - b. ☒ complaint
 - c. ☒ Alternative Dispute Resolution (ADR) package
 - d. ☒ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ cross-complaint
 - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served): Deutsche Bank Securities, Inc., care of Counsel, John Pernick, Esq.
 b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
4. Address where the party was served: Bingham McCutchen, 3 Embarcadero Center, Suite 1800, San Francisco, CA 94111
5. I served the party (check proper box)
 - a. ☐ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): (2) at (time):
 - b. ☐ by substituted service. On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 - (1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund	CASE NUMBER: 30-2011-00489022-CU-SL-CXC
DEFENDANT/RESPONDENT: STEC, Inc., et al.	

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): July 8, 2011 (2) from (city): San Diego
- (3) ☒ with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgment of Receipt.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☒ by other means (specify means of service and authorizing code section): by overnight delivery and confirmation of receipt of service. I overnighted the documents listed in item 2 to the party, to the address shown in item 4, by FedEx, pre-paid, (Code Civ. Proc., Section 1013(c).)

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): Deutsche Bank Securities, Inc.

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: Dena L. Bielasz
- b. Address: 12481 High Bluff Drive, Suite 300, San Diego, CA 92130
- c. Telephone number: (858) 793-0070
- d. The fee for service was: \$ N/A
- e. I am:

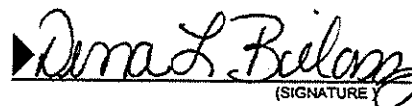
- (1) ☐ not a registered California process server.
- (2) ☒ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: August 2, 2011

Dena L. Bielasz
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

TO (insert name of party being served): Deutsche Bank Securities, Inc.

(TYPE OR PRINT NAME)

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,
ON WHOSE BEHALF THIS FORM IS SIGNED)

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

PROOF OF SERVICE OF SUMMONS

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of:

a. ☒ summons

b. ☒ complaint

c. ☒ Alternative Dispute Resolution (ADR) package

d. ☒ Civil Case Cover Sheet (served in complex cases only)

e. ☐ cross-complaint

f. ☐ other (specify documents):

3. a. Party served (specify name of party as shown on documents served): J.P. Morgan Securities, Inc., care of Counsel, John Pernick, Esq.

b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):

4. Address where the party was served: Bingham McCutchen, 3 Embarcadero Center, Suite 1800, San Francisco, CA 94111

5. I served the party (check proper box)

a. ☐ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): (2) at (time):

b. ☐ by substituted service. On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):

(1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

(2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.

(3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.

(4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or ☐ a declaration of mailing is attached.

(5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund	CASE NUMBER: 30-2011-00489022-CVU-SL-CXC
DEFENDANT/RESPONDENT: STEC, Inc., et al.	

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): July 8, 2011 (2) from (city): San Diego
- (3) ☒ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgment of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☒ by other means (specify means of service and authorizing code section): by overnight delivery and confirmation of receipt of service. I overnighted the documents listed in item 2 to the party, to the address shown in item 4, by FedEx, pre-paid, (Code Civ. Proc., Section 1013(c).)

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): J.P. Morgan Securities, Inc.

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: Dena L. Bielasz
- b. Address: 12481 High Bluff Drive, Suite 300, San Diego, CA 92130
- c. Telephone number: (858) 793-0070
- d. The fee for service was: \$ N/A
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☒ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: August 2, 2011

Dena L. Bielasz
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbgllaw.com ATTORNEY FOR (Name): Plaintiff West Virginia Laborers' Trust Fund		FOR COURT USE ONLY CASE NUMBER: 30-2011-00489022-CU-SL-CXC Ref. No. or File No.:
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 West Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center		
PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.		
PROOF OF SERVICE OF SUMMONS		

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. ☒ summons
 - b. ☒ complaint
 - c. ☒ Alternative Dispute Resolution (ADR) package
 - d. ☒ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ cross-complaint
 - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):
Oppenheimer & Co., Inc., care of Counsel, John Pernick, Esq.
 b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
4. Address where the party was served: **Bingham McCutchen, 3 Embarcadero Center, Suite 1800, San Francisco, CA 94111**
5. I served the party (check proper box)
 - a. ☐ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): _____ (2) at (time): _____
 - b. ☐ by substituted service. On (date): _____ at (time): _____ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3): _____
 - (1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): _____ from (city): _____ or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund	CASE NUMBER: 30-2011-00489022-CU-SL-CXC
DEFENDANT/RESPONDENT: STEC, Inc., et al.	

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): July 8, 2011 (2) from (city): San Diego
- (3) ☒ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☒ by other means (specify means of service and authorizing code section): by overnight delivery and confirmation of receipt of service. I overnighted the documents listed in item 2 to the party, to the address shown in item 4, by FedEx, pre-paid, (Code Civ. Proc., Section 1013(c).)

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): Oppenheimer & Co., Inc.

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: Dena L. Bielasz
- b. Address: 12481 High Bluff Drive, Suite 300, San Diego, CA 92130
- c. Telephone number: (858) 793-0070
- d. The fee for service was: \$ N/A
- e. I am:

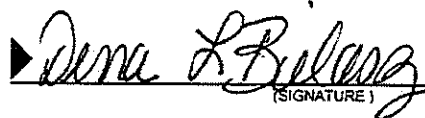
- (1) ☐ not a registered California process server.
- (2) ☒ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: August 2, 2011

Dena L. Bielasz
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Blair A. Nicholas (Bar No. 178428) BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP 12481 High Bluff Drive, Suite 300 San Diego, California 92130-3582 TELEPHONE NO.: (858) 793-0070 FAX NO. (Optional): (858) 793-0323 E-MAIL ADDRESS (Optional): BlairN@blbgllaw.com ATTORNEY FOR (Name): Plaintiff W. Virginia Laborers' Trust Fund	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME: Civil Complex Center	
PLAINTIFF/PETITIONER: West Virginia Laborers' Trust Fund DEFENDANT/RESPONDENT: STEC, Inc., et al.	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL	CASE NUMBER: 30-2011-00489022-CU-SL-CXC

TO (insert name of party being served): Oppenheimer & Co., Inc.

NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: July 8, 2011

Blair A. Nicholas

(TYPE OR PRINT NAME)

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

- ☒ A copy of the summons and of the complaint.
- ☒ Other: (specify): Civil Case Cover Sheet; Alternative Dispute Resolution (ADR) Information Package

(To be completed by recipient):

Date this form is signed: 7/13/11John Pernick, counsel for Oppenheimer

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge David O. Carter and the assigned discovery Magistrate Judge is Robert N. Block.

The case number on all documents filed with the Court should read as follows:

SACV11- 1171 DOC (RNBx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

===== ;
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☒ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)
WEST VIRGINIA LABORERS' TRUST FUND, individually and on Behalf of
All Others Similarly Situated

DEFENDANTS
STEC, INC., MANOUCH MOSHAYEDI, MEHRDAD MOSHAYEDI,
RAYMOND D. COOK, RAJAT BAHRI, BARCLAYS CAPITAL INC.,
DEUTSCHE BANK SECURITIES, INC., (Continued in Attachment 1)

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
(See Attachment 2)

Attorneys (If Known)
(See Attachment 3)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES:- For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN (Place an X in one box only.)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☒ Yes ☐ No

MONEY DEMANDED IN COMPLAINT: \$ To be determined

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
Sections 11, 12(a)(2), and 15 of the Securities Act of 1933 (15 U.S.C. §§ 77k, 77l(a)(2) and 77o). (Brief Statement of Cause in Attachment 4)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	PORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL PROPERTY	PETITIONS	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General Habeas Corpus	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE	
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 610 Agriculture	PROPERTY RIGHTS
<input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 891 Agricultural Act	REAL PROPERTY	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	SOCIAL SECURITY
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	IMMIGRATION	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airlane Regs	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 465 Other Immigration Actions			<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				FEDERAL TAX SUITS
					<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
					<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

SACV11 - 1171 DOC (RNBx)

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☐ No ☒ Yes

If yes, list case number(s): (See Attachment 5)

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- ☒ A. Arise from the same or closely related transactions, happenings, or events; or
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☒ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District: *	California County outside of this District; State, if other than California; or Foreign Country
	West Virginia

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District: *	California County outside of this District; State, if other than California; or Foreign Country
(See Attachment 6)	(See Attachment 6)

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District: *	California County outside of this District; State, if other than California; or Foreign Country
Orange	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Date 8/4/11

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

ATTACHMENT 1 TO CIVIL COVER SHEET

I(a). Defendants (continued):

J.P. MORGAN SECURITIES, INC., and OPPENHEIMER & CO., INC.

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ATTACHMENT 2 TO CIVIL COVER SHEET

I(b). Attorneys for Plaintiffs:

Blair A. Nicholas (SBN 178428)

Niki L. Mendoza (SBN 214646)

Takeo A. Kellar (SBN 234470)

BERNSTEIN LITOWITZ BERGER & GROSSMAN LLP

12481 High Bluff Drive, Suite 300

San Diego, CA 92130

Tel: (858) 793-0070

ATTACHMENT 3 TO CIVIL COVER SHEET

I(b). Attorneys for STEC, INC., MANOUCH MOSHAYEDI, MEHRDAD
MOSHAYEDI, RAYMOND D. COOK, and RAJAT BAHRI:

Patrick E. Gibbs (SBN 183174)

Chris W. Johnstone (SBN 242152)

LATHAM & WATKINS LLP

140 Scott Drive

Menlo Park, CA 94025

Tel: (650) 328-4600

Michele D. Johnson (SBN 198298)

LATHAM & WATKINS LLP

650 Town Center Drive, 20th Floor

Costa Mesa, CA 92626

Tel: (714) 540-1235

I(b). Attorneys for BARCLAYS CAPITAL INC., DEUTSCHE BANK
SECURITIES, INC., J.P. MORGAN SECURITIES, INC., and
OPPENHEIMER & CO., INC.:

John D. Pernick (SBN 155468)

Amy G. June (SBN 218610)

BINGHAM MCCUTCHEN LLP

Three Embarcadero Center

San Francisco, CA 94111

Tel: (415) 393-2000

ATTACHMENT 4 TO CIVIL COVER SHEET

VI. Brief Statement of Cause:

Removal of Plaintiffs' claims arising under Sections 11, 12(a)(2), and 15 of the Securities Act of 1933 because they involve federal questions.

ATTACHMENT 5 TO CIVIL COVER SHEET

VIII(b). Related Cases:

In re STEC, Inc., Securities Litigation, 8:09-cv-01304-JVS-MLG, which includes the following consolidated matters:

- *Fischer v. STEC, Inc., et al.*, 2:09-cv-08536-JVS-MLG
- *Sakhai v. STEC, Inc., et al.*, 8:09-cv-01306-JVS-MLG
- *Greenwald v. STEC, Inc., et al.*, 8:09-01315-JVS-MLG
- *Munter v. STEC, Inc., et al.*, 8:09-cv-01320-JVS-MLG
- *Weinberger v. STEC, Inc., et al.*, 8:09-cv-01460-JVS-MLG
- *Meda v. STEC, Inc., et al.*, 8:10-cv-00248-JVS-MLG

In re STEC, Inc., Derivative Litigation, 2:10-cv-00667-JVS-MLG, which includes the following consolidated matters:

- *Building Trades United Pension Trust Fund v. Manouch Moshayedi, et al.*, 2:10-cv-00667-JVS-MLG
- *Gerov v. Manouch Moshayedi, et al.*, 8:10-cv-00220-JVS-MLG

ATTACHMENT 6 TO CIVIL COVER SHEET

IX(b). Residence of Defendants:

STEC, INC.:	Orange County
MANOUCH MOSHAYEDI:	Orange County
MEHRDAD MOSHAYEDI:	Orange County
RAYMOND D. COOK:	Orange County
RAJAT BAHRI:	Santa Clara County
BARCLAYS CAPITAL INC.:	New York
DEUTSCHE BANK SECURITIES, INC.:	New York
J.P. MORGAN SECURITIES, INC.:	New York
OPPENHEIMER & CO., INC.:	New York